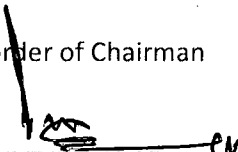


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1320/2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/09/2022	<p>The appeal of Mrs. Khan Mehbooba resubmitted today by Mr. Afrasiab Khan Wazir Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

NOTE:

Objection.No.1. In Para No.4 of the appeal due to clerical mistake (word) appellant is used, hence this Para No.4 be considered as Colleagues of the Appellant.

Objection No.2. Appeal is flagged and marked with annexure.

Objection No.3. Annexure A,B,D,E are replaced by better copies.

Objection No.4. The appellant is aggrieved of the discrimination regarding Conveyance Allowance; due to that pay slip is attached of the appellant (impugned).

Hence the entire objections are removed in appeal and are re-submitted today dated 01.09.2022.


Afrasiab Khan Wazir
Advocate.

The appeal submitted by Mr. Afrasiab Khan Wazir Advocate today i.e. on 22.08.2022 is incomplete on the following score which is returned to him for completion and resubmission within 15 days.

1. Copy of Writ Petition in respect of appellant mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.
2. Appeal has not been flagged/marked with annexures marks.
3. Annexures A, B, C & E of the appeal are illegible which may be replaced by legible/better one.
4. Copy of impugned order is not attached with the appeal.

No. 2453 /S.T,

Dt. 23/8 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Afrasiab Khan Wazir Adv. Pesh.

Note: In objection No. 1, in para-4 of appeal the appellant is erroneously mentioned due to clerical mistake, it be considered colleagues of the appellant only.

*objection No. 2, 3, 4 are corrected - hence re-submitted
Today 1/9/2022*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

APPEAL NO. 1320 /2022

KHAN MEHBOOBA

VS

HEALTH DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1- 3
2.	Notification & Regularization Act-2014	A & B	4 - 10
3.	Notification	C	11
4.	Pay slips	D & E	12 - 17
5.	High Court judgment dated 24.03.2022	F	18 - 25
6.	Departmental appeal	G	26
7.	Vakalat nama	27

APPELLANT

THROUGH:

**AFRASIAB KHAN WAZIR
ADVOCATE, HIGH COURT
PESHAWAR**

OFFICE:

Room No.6 Ground Floor, Afridi Tower,
Government College Chowk, Faqir Abad,
Peshawar City.

Mobile No: 0312-9888752

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2022

Mrs. Khan Mehbooba, Lady Health Worker (BPS-5),
BHU Jangeri, District Karak.

.....**APPELLANT**

VERSUS

- 1- The Secretary Health, Khyber Pakhtunkhwa, Peshawar
- 2- The Director General Health, Khyber Pakhtunkhwa, Peshawar.
- 3- The Provincial Coordinator LHW Program Khyber Pakhtunkhwa, Peshawar.
- 4- The District Health Officer, District Karak.
- 5- The District Accounts Officer, District karak.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ILLEGAL AND UNLAFUL ACTION OF THE RESPONDENTS BY NOT ALLOWING/GRANTING CONVYENACE ALLOWANCE TO THE APPELLANT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this instant service appeal the respondents may kindly be directed to allow/grant conveyance allowance at par with colleagues of same & other district of the Lady Health Workers with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant is serving in the Health Department as Lady Health Worker (BPS-5), regularized under the Khyber Pakhtunkhwa Regulation Of Lady Health workers Program employee (Regularization And Standardization) Act-2014, and are performing her duties up to the entire satisfaction of their superiors. Copy of the Notification dated 24.09.2014 & Regularization Act-2014 are attached as annexure.....**A & B.**
- 2- That the Conveyance Allowance is admissible to all the Civil Servants and to this effect a Notification No. FD (PRC)1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees working in BPS 1 to 15 were enhance/revised while employees from

BPS- 16 to 19 has been treated under the previous Notification by not enhancing their conveyance allowance. Copy of the Notification dated 20.12.2012 are attached as annexure.....C.

3- That the appellant's colleagues in same and other districts are receiving the conveyance allowances but the respondents without any valid and justifiable reasons are not allowing/granting the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed to the appellant. Copies of the Salary Slips are attached as annexure.....D & E.

4- That the appellant and her colleagues approached to Peshawar High Court, Bannu Bench, Peshawar in writ petition No.346/2019 which was dismissed under Article-212 of the Constitution of Islamic republic of Pakistan, 1973, being component of pay, falls in Service Tribunal Jurisdiction vide order dated 24.03.2022. Copy of the writ petition No.346/2019 order dated 24.03.2022 is attached as annexure.....F.

5- That appellant feeling aggrieved also filed Departmental appeal before the appellate authority to redress grievances in light of the principle of consistency but no reply has been received from the quarter concerned. That appellant feeling aggrieved and having no other remedy, filed the instant service appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure.....G.

GROUND:

A- That the action and inaction of the respondents regarding not allowing/granting conveyance allowance to the appellant at par with other colleagues is illegal, against the law, facts, norms of natural justice.

B- That the action/inaction of the respondents is against Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the action of the respondents is without any legal authority, discriminatory and in clear violation of fundamental rights duly conferred by the Constitution and is liable to be declared as null and void.

D- That as the act of the respondents is illegal, unconstitutional, without any legal authority and not only discriminatory but is also the result of malafide on the part of respondents.

E- That appellant has the vested right of equal treatment before law and the act of the respondents to deprive the petitioners from the conveyance/allowance is unconstitutional and clear violation of fundamental rights.

F- That under the principle of consistency the appellant is fully entitle to the conveyance allowance as are given to the other colleagues of the appellant in various districts.

G- That according to Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973 the state is bound to reduce disparity in the income and earning of individuals including persons in the services of the federation, therefore in light of the said Article the appellant fully entitle for the grant of conveyance allowance during vacations.

H- That the petitioners seeks permission of this Honorable Court to raise any other grounds available at the time of arguments.

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

Dated:

APPELLANT

Mehbooba
Khan mehbooba

Through:

AFRASIAB KHAN WAZIR
ADVOCATE HIGH COURT,
PESHAWAR

AFFIDAVIT

I do hereby solemnly affirm and declare that the contents of this instant service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Afrasiab Khan Wazir
AFRASIAB KHAN WAZIR
ADVOCATE HIGH COURT,
PESHAWAR

CERTIFICATE

It is certified that no earlier service appeal has been filed between the parties.

Better Copy

OFFICE OF THE
DISTRICT HEALTH OFFICER
KARAK

Phone and Fax 0927210837

No. 8787-91

Dated 24/09/2014

NOTIFICATION

In term of section 4 (1) read with Proviso there under, of the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program (Regularization) Act, 2014, services of Lady Health Workers Programme Employees of District Karak Khyber Pakhtunkhwa are hereby regularized with effect from 1st July 2012 terms and conditions of service will be governed under the Khyber Pakhtunkhwa regulation of Lady Health Programme and Employees (regularization and Standardization) Act, 2014 and rules to be made there under.

S. No	Name of Community Embedded employee	Father/Husband Name	FLCF	Name of catchment area
-------	-------------------------------------	---------------------	------	------------------------

FLCF BHU DHQ Karak

S. No	Name of Community Embedded employee	Father/Husband Name	Date of Birth	FLCF	Name of catchment area	
1.	Nighat Yasmeen.	F	Noor Zar Ali Khan	01/10/2010	Dhq Hospital Karak	LHS
2.	Kalsoom Sultana	H	Mohammad Altaf	10/11/2005	Dhq Hospital Karak	LHS
3.	Zaibun Nisa	H	Abdul Nawaz	02/07/1995	Dhq Hospital Karak	Tehsil Area
4.	Saira Khatoon	H	Syed Umar	01/01/1997	Dhq Hospital Karak	Tappi Algadi
5.	Rafiq Begum	H	Mohammad Sher	20/01/2000	Dhq Hospital Karak	Near Baraf Khana
6.	Shabum Aziz	H	Nasib Gul	27/03/2001	Dhq Hospital Karak	Gandan
7.	Gul Farima	F	Shabir Gul	27/03/2001	Dhq Hospital Karak	Lakki Banda
8.	Robina Naz	F	Mibarik Shah	27/03/2001	Dhq Hospital Karak	Banghashan
9.	Ambareen Begum	F	Zahir Jan	27/03/2001	Dhq Hospital Karak	Bai Khel
10.	Zarnigara	H	M. Ismail	02/07/2001	Dhq Hospital Karak	Tatar Khel
11.	Naser Khana	F	Gul Nawaz Khan	13/03/2002	Dhq Hospital Karak	Dabli Lawaghar
12.	Farzana Nawaz	H	Mohammad Nasir	13/03/2002	Dhq Hospital Karak	Algadi
13.	Noor Zada Bano	F	Riaz Gul	01/07/2004	Dhq Hospital Karak	Algadi Sharqi
14.	Zeenat Bibi	H	Asghar Khan	01/07/2004	Dhq Hospital Karak	Andi
15.	Khadija Natees	H	Hameed Ullah	01/07/2004	Dhq Hospital Karak	Tappi Karak
16.	Fiaz Begum	H	Abdul Jalil	19/07/2004	Dhq Hospital Karak	Bhu Mitha Khel
17.	Murad Bibi	F	Hajat Khan	01/04/2005	Dhq Hospital Karak	Tappi Karak
18.	Mehnaz Begum	F	Waris Khan	12/07/2005	Dhq Hospital Karak	Asat Khel
19.	Sumira Naz	F	Mohammad Sher	01/03/2006	Dhq Hospital Karak	Algadi Shirqi
20.	Tasleem Begum	F	Amir Khan	01/03/2006	Dhq Hospital Karak	Tapi Algadi
21.	Zartaj Begum	H	Mohd Gulzar	01/03/2005	Dhq Hospital Karak	Aisaf Khel
22.	Razia Sultana	H	Wo Ali Akbar	02/04/2007	Bhu Mitha Khel	Purana Bazar
23.	Zahida Sultan	F	Habib Ur Rehman	02/04/2007	Bhu Mitha Khel	Tur Dhand
24.	Ulfat Jehan	H	Waheed	15/06/2009	DHQ hospital Karak	Algadi Karak
25.	Bibi Khurma	H	Fiaz	15/06/2009	DHQ Hospital Karak	Devgara
26.	Samina Pirzada	F	Noor Mohammad Khan	15/06/2009	Dhq Hospital Karak	Markaz Koroona
27.	Fozia Nawaz	F	Nawaz Khan	15/06/2009	Dhq Hospital Karak	Khazikhel
28.	Kishwar Bano	F	Muhammad Rehan	15/06/2009	Dhq Hospital Karak	Rehmatabad
29.	Haseena Shah	H	Maizullah Khan	15/06/2009	Dhq Hospital Karak	Sheen Lawaghar
30.	Bibi Fatima	H	Najeeb Ur Rehman	15/06/2009	Dhq Hospital Karak	Faqeerabad
31.	Zeenat Begum	F	Sher Adam Khan	15/06/2009	Dhq Hospital Karak	Faqeerabad

Handwritten signature and number 13 in a circle.

A-4

OFFICE OFF THE
DISTRICT HEALTH OFFICER
KARAK

Phone & Fax: 0927210337

No. 8828-32

Date 26/09/2014.

NOTIFICATION

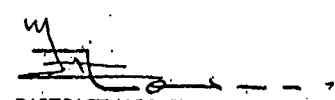
In term of section 4(1) read with 1st Proviso there under, of the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program Employees (Regularization and Standardization) Act, 2014, services of Lady Health Workers Program Employees of District Karak Khyber Pakhtunkhwa are here by regularized with effect from 1st July 2012. Their terms and conditions of service will be governed under the Khyber Pakhtunkhwa regulation of Lady Health program and Employees (Regularization and Standardization) Act, 2014 and rules to be made there under.

S.No	Name of community embedded employee	Father/Husband-Name	Date of appointment	FLCF	Name of catchment area
FLCF BHU Jehangiri					
1	Asli Noor	F: Noor Mali	02/01/2004	BHU Jehangiri	LHS
1	Hajran Ara	H: Mashal Khan	13/04/1998	BHU Khojaki	Zairi wala
2	Nusrat Irshad	H: Khlid Usman	13/04/1998	BHU Khojaki	Basri Banda
3	Fahmeeda Akhter	H: Mohammad Ali	21/05/1995	BHU Jehangiri	Odeen Shah
4	Gul Nasreen	H: Sadiq Rehman	21/05/1995	BHU Jehangiri	Jawal Khel
5	Hajran Bibi	H: Saifullah	21/05/1995	BHU Jehangiri	Lakki banda
6	Zubida Akhtar	H: Nasir Khan	21/05/1995	BHU Jehangiri	Odeen Shah
7	Mehro Nisa	H: Zahid Ullah	01/05/1996	BHU Jehangiri	Lawara banda
8	Tajwar Jallana	H: Muhammad Rahman	03/07/1995	BHU Jehangiri	Ibrahim Khel
9	Abbas Bibi	H: Nawab Ali	01/05/1996	BHU Jehangiri	mainki
10	Negat Ara	H: Abdul Waheed	13/04/1998	BHU Khojaki	Jattan Banda
11	Refat Shaheen	H: Zahoor Ali	19/10/1998	Takht-e-nasrati	Topi Kala
12	Amora Rij	F: Awal-Shah	02/04/2001	BHU Jehangiri	Topi Kala
13	Nargis Yasmeen	F: Muhammad Idress	02/04/2001	BHU Jehangiri	Mirdil Banda
14	Koumar Bibi	F: Faiz Ullah	02/04/2001	Jehangiri	Motabbat Kala
15	Sajda Sayab	F: Muhammad Nauman	01/05/2002	BHU Jehangiri	Dasu Banda
16	Miss Riaz	H: Javeed Khan	14/02/2002	Takht-e-nasrati	Yaquobi Kala
17	Di Khobana	H: Rehman Gul	14/02/2002	Takht-e-nasrati	Serik
18	Zakia Bibi	F: Muhammad Zarkhan	01/05/2002	BHU Jehangiri	Bangi Khel
19	Nusrat Parveen	H: Mula Dad	01/07/2004	BHU Jehangiri	Hassan banda
20	Mussarat Hiral	F: Gul Shah Bajaz Khan	01/07/2004	BHU Jehangiri	Mir Adnan Kala
21	Farzana Koukab	H: Amir Khan	01/07/2004	BHU Jehangiri	Mainzani Banda
22	Shabnam Parveen	H: Amjad	01/07/2004	BHU Jehangiri	Mir Khawan Banda
23	Zahran Bibi	H: Umar Khitab	01/07/2004	BHU Jehangiri	Talab korona
24	Shahida Ambarveen		01/07/2005	Ch Takht Nasrati	Qureshi Nagar
25	Ghazala Perveen	H: Muhammad Imran	12/07/2005	BHU Jehangiri	Marato Banda
26	Yaseen Akhtar	H: Rasheed Ur Rehman	12/07/2005	BHU Jehangiri	banki Kala
27	Yasmin Akhtar	H: Mahboob Ali	12/07/2005	BHU Jehangiri	Mosakan
28	Fatima Imtiah	H: Muhammad Ali	12/07/2005	BHU Jehangiri	Naizi Khel
29	Awal Noor Bibi	F: Waheed Khan	01/01/2006	BHU Jehangiri	Mosakan
30	Zaibun Nisa	H: Farhat	01/03/2006	BHU Jehangiri	Shabeedan
31	Minkhas Parveen		01/03/2006	BHU Jehangiri	Alan gul Khel
32	Najma Shaheen		01/03/2006	BHU Jehangiri	Mansoori Kala
33	Khan Mehbooba	H: [Signature]	01/03/2006	BHU Jehangiri	Zairi Banda
34	Mumtaz Begum	F: [Signature]	01/03/2006	BHU Jehangiri	Jaisi Banda
35	Shah Begum	F: [Signature]	01/03/2006	BHU Jehangiri	Shah Faisal korona
36	Bibi Zahida	F: [Signature]	02/04/2007	Ch Takht-e-Nasrati	Sharbi Kala
37	Basmeena Akhtar	F: [Signature]	15/06/2009	BHU Jehangiri	Laghari banda
38	Dilshad Begum	F: [Signature]	15/06/2009	BHU Jehangiri	Anzar Banda
39	Anjum Bibi	H: [Signature]	15/06/2009	BHU Jehangiri	Kaski
40	Nargis Shaheen	H: Masoom Ul Islam	15/06/2009	BHU Jehangiri	Mosakan
41	Rukhsana	H: Mohammad Younus	6/15/2009	BHU Jehangiri	Driver
42	Fulail Ahmad	F: Noor Mali Khan	01/08/2009	BHU Jehangiri	

5


exercise of power conferred under subsection (2) of the Section ibid, the above community embedded employees are placed in the following pay scales as mentioned against their respective designations.

Name of Post	Basic Pay Scale
Lady Health Supervisor	BPS 07
Lady Health Worker	BPS 05
Driver	BPS 04


DISTRICT HEALTH OFFICER
KARAK

cc

1. Director General Health services Khyber Pakhtunkhwa Peshawar.
2. Provincial Coordinator LHW Program Khyber Pakhtunkhwa Peshawar.
3. District Account-Officer Karak for information
4. In Charge FLCF concerned for information.
5. Officials concerned.


DISTRICT HEALTH OFFICER
KARAK

EXTRAORDINARY
GOVERNMENT



B-6 A
REGISTERED NO. PIII
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 2ND JULY, 2014.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 2nd July, 2014.

No. PA/Khyber Pakhtunkhwa/Bills/2014/35 L.—The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Bill, 2014, having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 24th June, 2014 and assented to by the Governor of the Khyber Pakhtunkhwa on 29th June, 2014 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA REGULATION OF LADY HEALTH WORKERS PROGRAM
AND EMPLOYEES (REGULARIZATION AND STANDARDIZATION) ACT, 2014

(KHYBER PAKHTUNKHWA ACT NO. XXVI OF 2014)

(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 2nd July, 2014).

AN
ACT

*to regulate the status of Lady Health Workers Program in the Province of the Khyber
Pakhtunkhwa and to regularize and standardize the services of employees
of the said program*

WHEREAS in pursuance of the Constitution (Eighteenth Amendment) Act, 2010, the subject of Health has been devolved to the Provinces and as such Lady Health Workers Program run by Federal Government for supporting the family planning and primary health care was devolved to the Provinces accordingly;

AND WHEREAS in the Lady Health Workers Program, the community based workers have a special nature of job, for the execution of which they have to remain continuously embedded with their local catchment population;

10

(7)

18 KHYBER PAKHTUNKHWA GOVERNMENT, EXTRAORDINARY, 2nd JULY, 2014

AND WHEREAS it is obligatory to maintain the original concept and design of the Lady Health Workers Program, to ensure the presence of community embedded employees for effective service delivery to the people of the area;

AND WHEREAS it is expedient to regulate the status of Lady Health Workers Program in the Province of the Khyber Pakhtunkhwa and to regularize and standardize the services of the employees of the said program.

It is hereby enacted as follows:-

1. Short title, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Act, 2014.

(2) It shall apply to all persons employed or to be employed in Lady Health Workers Program, in the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once except section 4, which shall come into force on 1st July, 2012.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or context,-

- (a) "catchment population" means the local population for which a Community Embedded Employee of the Program is appointed or posted and regularly resides therein;
- (b) "Community Embedded Employee" means a Program employee residing and working within his defined catchment population for which he was appointed or posted;
- (c) "District Program Implementation Unit" means the Management Unit of the Program at District level;
- (d) "Government" means the Government of the Khyber Pakhtunkhwa;
- (e) "prescribed" means prescribed by rules;
- (f) "Program" means the Lady Health Workers Program devolved to the Province and which was previously run by the Federal Government under the name of the National Program for Family Planning and Primary Health Care;
- (g) "Program employee" means an employee of the Program, whose service is regularized under this Act and includes persons to be appointed after the commencement of this Act;
- (h) "Province" means the Province of the Khyber Pakhtunkhwa;
- (i) "Provincial Program Implementation Unit" means the Management Unit of the Program at Provincial level; and
- (j) "rules" mean rules made under this Act.

Attested
AA VP

Attested
S. J.

3. Status of Program.---(1) On commencement of this Act, the National Program for Family Planning and Primary Health Care, shall be deemed to be a Program of Government to be known as the Lady Health Workers Program.

(2) The purpose of the Program shall be to provide preventive, curative, rehabilitative and promotive health care services to the catchment population in the Province.

(3) The Program shall continue for such a period as Government may determine.

(4) After coming into force of this Act, Government may appoint persons to various posts in the Program on contract basis and there shall be no regular appointment in the Program.

(5) The appointment under sub-section (4) shall be made in accordance with the criteria and manner as may be prescribed.

4. Regularization.---(1) On commencement of this Act, all the Program employees, who were appointed in the Program on contract or fixed monthly stipend basis before 1st July 2012, and holding the said post till the commencement of this Act, shall stand regularized with effect from 1st July, 2012:

Provided that the services of such Program employees shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette:

Provided further that the posts of the Program fallen vacant on account of death, retirement, resignation, dismissal, termination or otherwise shall be filled-in on contract basis.

(2) The Program employees regularized under this Act shall be placed in the relevant Pay Scales corresponding to the civil servants or as may be determined by Government.

(3) The seniority of the Program employees regularized under this Act shall be determined in a manner as may be prescribed.

(4) A Program employee, whose services are regularized under this Act, shall retire from service, on the option of the Program employee and on such date as requested by the Program employee, after completion of twenty five years of qualifying service or on the completion of sixtieth year of age.

(5) A Program employee, whose service is regularized under this Act, shall be entitled to such pensionary and retirement benefits as may be determined by Government.

5. Mechanism of recruitment for Community Embedded Employees.---(1) For filling a post of Community Embedded Employee, the appointing authority shall cause to verify and ensure in the prescribed manner that person, who is to be appointed against such post, shall be a regular resident of his catchment population.

(2) The Provincial Program Implementation Unit shall oversee and monitor the process and finding of the verification, carried out by the appointing authority under sub-section (1), before a person is appointed against post of Community Embedded Employee.

Attested
A.A.D

Attested
Femin

(3) The Community Embedded Employee shall perform his duties within the catchment population of his residence; provided that Government may adjust a Community Embedded Employee in another area in certain circumstances to be prescribed.

(4) Notwithstanding anything contained in other provisions of this Act, the services of the Community Embedded Employees, whose services are regularized under this Act, or other Community Embedded Employees to be appointed after the commencement of this Act, shall be liable to termination, if the employee-

- (a) has unlawfully ceased to be a regular resident within or has become a non-resident for his catchment population; or
- (b) is involved in any other engagement or a practice which is not in accordance with the laid down and approved policy of the Program; or
- (c) has ceased to be efficient in the performance of official duties; or
- (d) has proved guilty of gross misconduct.

(5) A Community Embedded Employee, whose service is terminated under sub-clause (a) or (b) of sub-section (4) of this Act may be reinstated into service in a manner as may be prescribed:

Provided that this opportunity of reinstatement shall not be given more than once throughout the tenure of a Community Embedded Employee's service:

Provided further that-

- (a) no salary or allowances shall be paid to the re-instated employee for the period spent under termination; and
- (b) payment made, if any, to the terminated employee being re-instated, which was not allowed during or for the period spent under termination, is recovered from the employee.

6. Posting, transfer and adjustment of Program employees.---Notwithstanding anything contained in other provisions of this Act, the Program employees, except the Community Embedded Employees, may be transferred to perform duty anywhere in the Province.

7. Disciplinary action.---Disciplinary cases against the Program employees shall be dealt with in a manner as may be prescribed.

8. Application of Government rules.---The Program employees shall be dealt in accordance with the provisions of this Act and rules; provided that if no specific rules are available on any matter, the Government rules shall be applicable to such Program employees.

9. Public servants.---All Program employees shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

10. Power to make rules.---Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Attended
AA VP

Accepted
[Signature]

16

13

KHYBER PAKHTUNKHWA GOVERNMENT, EXTRAORDINARY, 2nd JULY, 2014. 21

11. Saving.--- Any rules, orders or instructions in respect of any terms and conditions of services of Program employees duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made under this Act.

12. Removal of difficulties.---If any difficulty arises in giving effect to any of the provisions of this Act, Government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

13. Repeal.--- The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization and Standardization) Ordinance, 2014 (Khyber Pakhtunkhwa Ord. No. VI of 2014) is hereby repealed.

BY ORDER OF MR. SPEAKER,
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

Printed and published by the Manager,
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar

Attested
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GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO.FD/SO(SR-II)/52/2012
Dated Peshawar the: 20/12/2012

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 Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. All Heads of attached Departments in Khyber Pakhtunkhwa.
7. All District Coordination Officers of Khyber Pakhtunkhwa.
8. All Political Agents/District & Session Judge in Khyber Pakhtunkhwa.
9. The Registrar Peshawar High Court, Peshawar.
10. The Chairman Public Service Commission, Khyber Pakhtunkhwa.
11. The Chairman, Service Tribunal, Khyber Pakhtunkhwa.

Subject: REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA PROVINCIAL GOVERNMENT BPS-1-19

Dear Sir,

The Government of Khyber Pakhtunkhwa has been pleased to enhance/revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants Govt. of Khyber Pakhtunkhwa (working in BPS-1 to BPS-15) w.e.f from 1st September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-16 to BPS-19 will remain unchanged.

S.No.	BPS	Existing Rate (PM)	Revised Rate (PM)
1.	1-4	Rs. 1,500/-	Rs. 1,700/-
2.	5-10	Rs. 1,500/-	Rs. 1,840/-
3.	11-15	Rs. 2,000/-	Rs. 2,720/-
4.	16-19	Rs. 5,000/-	Rs. 5,000/-

2. Conveyance Allowance at the above rates per month shall be admissible to those BPS-17, 18 and 19 officers who have not been sanctioned official vehicle.

Your Faithfully

(Sahibzada Saeed Ahmad)
Secretary Finance

Endst No. FD/SO(SR-II)8-52/2012 Dated Peshawar the 20th December, 2012

Attested
A. D.

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11

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D-12

Lakki

S#: 4

P Sec:001 Month:June 2017
LK6066.-District Health Officer La
DISTRICT HEALTH OFFICER L

Pers #: 00787733 Buckle:
Name: RUQIA BIBI
LADY HEALTH WORKER
CNIC No.1120156461732
GPF Interest Free
05 Active Permanent

NTN:
GPF #:
Old #:

LK6066 -

PAYS AND ALLOWANCES:

0001-Basic Pay	10,270.00
1000-House Rent Allowance	1,002.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
1973-Adhoc Allowance 2010@ 50%	1,670.00
2148-15% Adhoc Relief All-2013	296.00
2174-Adhoc Relief Allow-2014	148.00
2211-Adhoc Relief All 2016 10%	1,027.00

Gross Pay and Allowances

17,845.00

DEDUCTIONS:

GPF Balance 7,450.00	Subrc:	745.00
3501-Benevolent Fund		600.00
4004-R. Benefits & Death Comp:		450.00

Total Deductions

1,795.00

16,050.00

D.O.B	LFP Quota:
20.05.1985	THE BANK OF KHYBER IBB, LAKKI MARWAT
05 Years 00 Months 001 Days	00217-00-2

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CNIC No. _____ Desig: Lady Health Worker (80573100) Grade 5

KTH

LOAN/FUND

	Amount	Deductions	Amount
Basic Pay	14,760.00	3005 GHF Subscription Amount	890.00-
0001 Basic Pay	14,760.00	2003 GP subscription	890.00
1004 House Rent Allow	3,610.00	3501 Benevolent Fund	1,200.00
1210 Conveyance Allowance 20	1,932.00	4004 R. Benefits & Death C	450.00
1300 Medical Allowance	1,500.00		
2148 Adhoc Relief All	296.00		
2188 Adhoc Relief Allow 2010	200		
2211 Adhoc Relief All 201	1,027.00		

Accounts Officer: Charsadda

PAYROLL REGISTER

For the month of January, 2022

Page 360

Dated 01.02.2022

DDO CA6112	EXECUTIVE DISTRICT HEALTH OFFICER	Payroll Section 001 Payroll 1
2224 Adhoc Relief All 201	1,476.00	
2247 Adhoc Relief All 201	1,476.00	
2248 Adhoc Relief All 201	1,476.00	
2309 Adhoc Relief All 202	1,476.00	
2311 Dress Allowance		
20	1,000.00	
2312 Disabled Allowance 20	1,000.00	
2313 Integrate Allowance	600	
2332 Lady health Worker	2,200.00	

PAYMENT 32,674

DEDUCTIONS 2,510.00

Net Pay 30,136.00

01.01.2022

31.01.2022

Branch No. 220217 TEHSIL BAZAR CHARSADEA HABIB BANK LIMITED TEHSIL BAZAR
 CHARSADEA
 CHARSADEA
 0002170019050801

Sanctified/Non-Gazetted: N

	AMOUNT	DEDUCTIONS	AMOUNT	UAM/FWD
--	--------	------------	--------	---------

BALANCE

	14,740.00	3005 GPF Subscription	490.00-	
GPFS:		72,388.00		
2168 184 Adhoc Relief All	3,388.00	3301 Benevolent Fund	1,700.00-	
2167 Allowance 20	1,932.00	4094 B. Benefits & Death C	450.00-	
1300 Medical Allowance	1,800.00			
2168 184 Adhoc Relief All	298.00			
2199 Adhoc Relief Allow 8	200.00			
2211 Adhoc Relief All 201	1,027.00			

Accounts Office Charsadda

PAYROLL REGISTER

For the month of January, 2022

Page : 360

Date : 01.02.2022

DOO : CAS112 EXECUTIVE DISTRICT HEALTH OFFICER

Payroll Section : 001 Payroll 1

2224 Adhoc Relief All 201	1,476.00
2247 Adhoc Relief All 201	1,476.00
2264 Adhoc Relief All 201	1,476.00
2309 Adhoc Relief All 202	1,476.00
2311 Dress Allowance - 20	1,000.00
2312 Washing Allowance 20	1,000.00
2313 Integrated Allowance	600.00
2332 Lady Health Worker A	2,200.00

32,674.00

DEDUCTIONS

2,540.00-

NET PAY

30,134.00

01.01.2022 31.01.2022

HABIB BANK LIMITED

THIRU KANAK CHANDRA

CHARSADDA

170019030001

District Charsadda

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For

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14
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CNIC No. 1730161877174 Desig: Lady Health Worker (80573100) Grade 5

KTH

LOAN/FUND

Amount Deductions Amount

Basic Pay 14,760,00 3005 GHF Subscription Amount 890.00- Deductions

0001 Basic Pay	14,760,00	2003 GP subscription	890.00
1004 House Rent Allow	3,610,00	3501 Benevolent Fund	1,200,00
1210 Conveyance Allowance20	1,932,00	4004 R. Benefits & Death C	450.00
1300 Medical Allowance	1,500.00		
2148 Adhoc Relief All	296.00		
2188 Adhoc Relief Allow 201	200		
2211 Adhoc Relief All 201	1,027,00		
2224 Adhoc Relief All 201	1,476,00		
2247 Adhoc Relief All 201	1,476,00		
2248 Adhoc Relief All 201	1,476,00		
2309 Adhoc Relief All 202	1,476,00		
2311 Dress Allowance 20	1,000,00		
2312 Disabled Allowance 20	1,000,00		
2313 Integrate Allowance	600		

PAYMENT 31,829,00
DEDUCTIONS 2,540.00

Branch No. _____ BANK SQUARE, PESHAWAR HABIB BANK LIMITED BANK SQUARE
PESHAWAR

LHW
Account office Peshawar

14

00510751
PESHAWAR

CNIC: 1730161877174
AMOUNT

Desig: LADY HEALTH WORKER (80573100)
AMOUNT

Grade: 05 NTN:
LOAN/FUND

0001 Salary
1001 House Rent Allow 450
1210 Medical Allowance 20
1300 Medical Allowance
2148 15% Adhoc Relief All
2188 Adhoc Relief Allow 2
2211 Adhoc Relief All 201
2224 Adhoc Relief All 202
2247 Adhoc Relief All 203
2264 Adhoc Relief All 201
2309 Adhoc Relief All 202
2311 Dress Allowance 20
2317 Utility Allowance 2A
2319 Insured Allowance

14,760.00
3,610.00
1,932.00
1,500.00
296.00
200.00
1,027.00
1,476.00
1,476.00
1,476.00
1,476.00
1,000.00
1,000.00
600.00

3005 GPF Subscription
3501 Benevolent Fund
4004 R. Benefits & Death C

890.00-
1,200.00-
450.00-

PHYFEN
Branch Peshawar

31,829.00
BANK SQUARE, PESHAWAR.

DEDUCTIONS
HABIB BANK LIMITED

2,540.00-
BANK SQUARE, PESHAWAR.

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Account
Payroll
For the month of _____

District Health Officer Kohat

CNIC NO. 1430119526958

PAYMENTS	AMOUNTS	DEDUCTIONS	AMOUNT
Basic Pay	12,260	3005 GP subscription	69
House Rent Allow	3,610	3501 Benevolent Fund	60
Allowance 20	1,932,00	4004 R. Benefits & Death C	69
Medical Allowance	1,500,00		
Adhoc Relief All 201	1,027,00		
Adhoc Relief Allow 201	1,276,00		
Adhoc Relief Allow 201	1,276,00		
PAYMENT	21,274.		
DEDUCTIONS			

Branch code. 220341
BANK LIMITED

SHAKARDARA KOHAT

HABIB

SULTANA WORKER	CNIC 1430195390826	DESIG LADY HEALTH
PAYMENTS AMOUNTS	AMOUNT	DEDUCTION

Basic Pay 8	12,760,00	3005 Subscription Rs	
House Rent Allowance	1,503,00	3501 Benevolent Fund	6
Allowance 20	1,932,00	4004 R. Benefits & Death C	6
Medical Allowance	1,500,00		
Adhoc Relief All 201	1,027,00		
Adhoc Relief Allow 201	1,276,00		
Adhoc Relief Allow 201	1,276,00		
	21,674'65		

Branch Code _____
DEDUCTIONS

HANGU ROAD KOHAT

HABIB BANK LIMITED

15

365

Accounts B/F
PAYROLL R
For the month of

Dist. Health Officer Kohat
CHIC. 1430119526743
A. H. H. T. S.

Section: 002
LADY HEALTH WORKER
A. H. H. T. S.

AMOUNT	DEDUCTIONS
Basic Pay	
House Rent Allowance	
Medical Allowance	
Relief All 201	
Relief All 201	
Relief All 201	
21,274.00	
	3005 EPF Subscription - Rs 690
	3501 Benevolent Fund 600
	4004 R. Benefits & Death C 690
	2,180

PAYMENTS
Bank Code: 220341
SHAKARDARA, PUNJAB.

DEDUCTIONS
HABIB BANK LIMITED

Dist. Health Officer Kohat
CHIC. 1430195390923
A. H. H. T. S.

Section: 002
LADY HEALTH WORKER
A. H. H. T. S.

AMOUNT	DEDUCTIONS
Basic Pay	
House Rent Allowance	
Medical Allowance	
Relief All 201	
Relief All 201	
Relief All 201	
21,274.00	
	3005 EPF Subscription - Rs 690
	3501 Benevolent Fund 600
	4004 R. Benefits & Death C 690
	2,180

PAYMENTS
Bank Code: 220218
HAKGU ROAD, PUNJAB.

DEDUCTIONS
HABIB BANK LIMITED

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Sec 001 Month February 2019
6103 EDO Health (Admn) Karak
District Health Officer

00786593 Buckle
Name Fareed Nisa
Lady Health Worker
CNIC No. 1420254270766
OPF Interest Applied Permanent
Pays an Allowance

Basic Pay	13,260,00
House Rent Allowance	1,503,00
Allowance 20	1,932,00
Medical Allowance	1,500,00
Adhoc Relief All 201	1,296,00
Adhoc Relief Allow 201	1,326,00
Adhoc Relief Allow 201	1,326,00
	22,37000

Pay and Allowance
Dedicate Code

Balance	26,414	899
Benevolent Fund	Subtract	6000
		6900

Total Deduction 2,180
20,190

456 DOB HABIB BANK LIMITED KARAK
08.02.1985

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Ministry of Health (Admin) KARAK
District Health Officer K

13,260.00
1,500.00
1,500.00
1,020.00
1,320.00
200.00
770.00
1,020.00
1,320.00
1,320.00
22,370.00

2,100.00
20,190.00

D.O.B. 09.02.1985
LTP Quoted
HABIB BANK LTD KARAK
18914-3

Self Insurance 26,414.00
Local Government Fund
Local Benefits & Death Comp.

Grave Pay and Allowances
Grave Relief All 1910.00
Grave Relief All 1910.00
Grave Relief All 1910.00
Grave Relief All 1910.00
Grave Relief All 1910.00
Grave Relief All 1910.00
Grave Relief All 1910.00
Grave Relief All 1910.00
Grave Relief All 1910.00
Grave Relief All 1910.00
Grave Relief All 1910.00

1078593
Buckley
HEALTH OFFICER
District Health Officer

16

17

Accounts Office Karak
PAYROLL REGISTER
For The Month Of January 2022

Page : 1

00789951 KHAN MEHBOOBA P A Y M E N T S	CNIC: 1420378396960 A M O U N T	DeSig: LADY HEALTH WORKER (80563191) D E D U C T I O N S	Grade: 05 NTN: A M O U N T LOAN/FUND	Buckle No.: PRINCIPAL	Gazetted/Non-Gazetted: N REPAID BALANCE
0001 Basic Pay	14,760.00	3005 GPF Subscription	890.00-	GPF#:	68,243.00
1001 House Rent Allowance	2,255.00	3501 Benevolent Fund	1,200.00-		
1300 Medical Allowance	1,500.00	4004 R. Benefits & Death C	450.00-		
2148 15% Adhoc Relief All	296.00				
2199 Adhoc Relief Allow @	200.00				
2211 Adhoc Relief All 201	1,027.00				
2224 Adhoc Relief All 201	1,476.00				
224 Adhoc Relief All 201	1,476.00				
2264 Adhoc Relief All 201	1,476.00				
2309 Adhoc Relief All 202	1,476.00				
2311 Dress Allowance - 20	1,000.00				

Accounts Office Karak
PAYROLL REGISTER
For the month of January , 2022

Page : 2,829
Date : 01.02.2022

DDO : KK6103 EDO Health (Admn) KARAK
2312 Washing Allowance 20 1,000.00
2313 Integrated Allowance 600.00

Payroll Section : 001 Payroll 1

PAYMENTS	28,542.00	DEDUCTIONS	2,540.00-	NET PAY	26,002.00	01.01.2022	31.01.2022
Branch Code: 221468	Takht Nusrati Bala, Karak.	HABIB BANK LIMITED	Takht Nusrati Bala, Karak.	KARAK	Accnt.No: 3981-1		

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F-18

BEFORE THE PESHAWAR HIGH COURT,
BANNU BENCH

Writ Petition No. 346 /2019

Farzana Begum etc. Petitioners

Versus

Government of Khyber Pakhtunkhwa through Secretary Health,
Peshawar etc. Respondents

I N D E X

S.#	Description of Documents	Annex	Page
1.	Writ Petition		1-6
2.	Affidavit		7
3.	Addresses of the Parties		8
4.	Copy of the notification/Act Dated 2 nd July, 2014	"A"	9-13
5.	Copy of the notification No.1340 Dated 22.9.2014, with better copy	"B"	14-15
6.	Copies of the notifications No.8782-86, 8787-91 and 8793-97 Dated 24.9.2014	"C", "D" & "E"	16-21
7.	Copies of pay slips of some of the petitioners and those employees who are receiving the conveyance allowance	"F" & "G"	22-40
8.	Copy of the Notices and receipts		41-46
9.	Court Fee		47
10.	Wakalatnama		48-49

Filed Today
26 MAR 2019
Additional Registrar

Re-Filed Today
05 APR 2019
Additional Registrar

Petitioners
Through

Signature

Malik Samiullah Khan
Advocate, Karak
0333-9717844

Dated: 25.3.2019

SCANNED
08 APR 2019

Signature

Mamana Lady Health Workers posted at various BHUs
(Lady Health Workers Program Employees at District
Karak, Khyber Pakhtunkhwa.

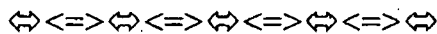
.....Petitioners

Versus

1. Government of Khyber Pakhtunkhwa through
Secretary Health, Peshawar.
2. Director General, Health Services Khyber
Pakhtunkhwa Peshawar.
3. Provincial Coordinator LHW Program Khyber
Pakhtunkhwa, Peshawar.
4. District Health Officer, District Karak.
5. District Accounts Officer, District Karak.

..... Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973.**



Respectfully Sheweth:

This Writ Petition rising up from the following facts:

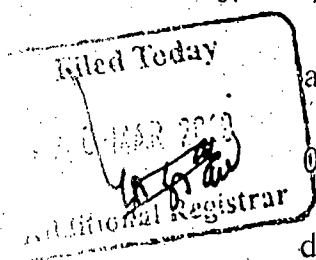
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1. That all the petitioners are bonafide residents of District Karak.
2. That the petitioners are serving as Lady Health Workers
(LHWs) at various BHUs (Lady Health Workers Program
Employees) at District Karak.

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3. That vide notification No.PA/Khyber Pakhtunkhwa/Bills/2014/351 Dated 2nd July, 2014, the respondent No.1 by order of the Speaker, Provincial Assembly Khyber Pakhtunkhwa issued an Act "The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularization) and Standardization), Act 2014" and regularized the services of the petitioners. Copy of the notification/Act is attached as Annexure "A".
4. That vide notification No.1340 Dated 22.9.2014 of the respondent No.3 vide which the District Health Officers were directed to issue individual notification to the employees of LHW Program. Copy of notification is attached as Annexure "B".
5. That in the light of above referred directions/notification, vide notifications No.8782-86, 8787-91 and 8793-97 Dated 24.9.2014, the District Health Officer, Karak regularized the services of the petitioners etc with effect from 1st July 2012. Copies of notifications are attached as Annexure "C", "D" & "E" respectively.
6. That the petitioners are entitled to receive conveyance allowance according to law since their regularization w.e.f. 01.7.2012 but the respondents No.4 & 5 are discriminately denying to pay the conveyance allowance to the petitioners



rather they (respondent No.4 & 5) are paying the same allowance to their blue eyed employees of the same category (LHWs) at District Karak. Copies of some of the pay slips of the petitioners are attached as Annexure "F" and of those employees who received the conveyance allowance are attached as "G".

7. That being aggrieved, the petitioners approaches this Honourable Court, inter alia, on the following grounds;

GROUND S:

- A. That according to service Rules, the petitioners as a matter of routine duties, visit 1-10 families/houses daily for their medical assistance, also participate in anti-polio campaigns for 05 days in the month approximately and also taking the infants of community to EPI Center/BHUs/RHCs etc.
- B. That the petitioners perform their duties in hilly and rural areas which are impossible without having a conveyance and in such a circumstances denial of conveyance allowance to the petitioners is against the law and rules.
- C. That the impugned action of the respondents No.4 & 5 is void-ab-initio, illegal and is discriminatory in contravention of the provisions of the constitution of Pakistan.

2.6 MAR 2019

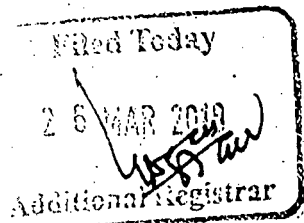
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- D. That the impugned action of the respondents No.4 & 5 be declared against the norms of justice in the light of directives/notifications of respondents No.1 to 3.
- E. That the impugned action is based on colourful exercise of powers, vested in the functionaries of the Government through Constitution of Pakistan, which is against the basic principles of the equality of citizens before the state.
- F. That the impugned action is illegal, void-ab-initio and not sustainable in the eye of law being not giving the fruit of conveyance allowance to the petitioners which is not admissible to prudent mind and against the principle of natural justice.
- G. That the impugned action of the respondents No.4 & 5 is devoid of any logic and against the guarantee and security provided to the Civil Servants.

It is, therefore, humbly prayed that on acceptance of this Writ Petition, the impugned action of the respondents may please be declared to be illegal, void-ab-initio and unsustainable and the respondent No.4 & 5 may please be directed to give the benefit of conveyance allowance to the petitioners w.e.f 1st July 2012 in accordance with law.



Petitioner

Through

Malik Samiullah Khan
Advocate, Karak

Dated: 25.3.2019

CERTIFICATE:

As per instructions of my clients, certified that no such like Writ Petition has earlier been filed by the petitioners before this Honourable Court.

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LIST OF BOOKS:

- 1. Constitution of Islamic Republic of Pakistan, 1973.
- 2. Case Law According to Need.

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Advocate

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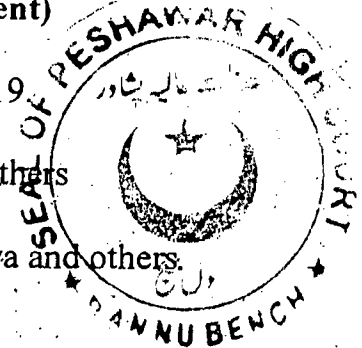
31 MAR 2013
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 10/10/13

(24)

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH.
(Judicial Department)**

W.P No.346-B/2019

Farzana Gul and 65 others
Vs
Govt. of Khyber Pakhtunkhwa and others.



JUDGMENT

Date of hearing: 24.03.2022
For petitioners: Mr. Shakirullah Khan , Advocates.
For respondents: Sardar Muhammad Asif, Asstt: AG.

MUHAMMAD FAHEEM WALI, J.--- Farzana Begum and 65 others who are working as Lady Health Workers at various BHUs have invoked the constitutional jurisdiction of this Court, praying that:-

“It is, therefore, humbly prayed that on acceptance of this writ petition, the impugned action of the respondents may please be declared to be illegal, void-ab-initio and unsustainable and the respondents No.4 and 5 may please be directed to give the benefit of conveyance allowance to the petitioner w.e.f 1st July 2012 in accordance with law.”

2. It is alleged in the petition that initially the present petitioners were appointed on contract basis, however, later on through the Khyber Pakhtunkhwa Regulation of Lady Health

ATTESTED

JUDGE
Peshawar High Court
Bannu Bench

Workers Program and Employees (Regularization) and Standardization), Act, 2014, the services of the present petitioners were regularized. On regularization they have attained the status of civil servants, therefore, they are also entitled to conveyance allowance, similar to the other civil servants. On the other hand it is the contention of the respondents that the said conveyance allowance is not admissible to the petitioners in a limit of street village or within the LHVs local jurisdiction, they are performing their duties in the close vicinity of their places of residence.

3. Be that as it may, once the present petitioners have acquired the status of civil servants, their claim for allowance cannot be entertained by this Court in view of jurisdictional contour as envisaged by Article 212 of Constitution of Islamic Republic of Paksitan, 1973 being one of the terms and conditions of service of a civil servant. Needless to mention that allowance constitute an essential component of pay. In view of the clear bar stated above, this petition is not maintainable which is accordingly dismissed.

Announced.
24.03.2022
Ihsan

CERTIFIED TO BE TRUE COPY

[Handwritten Signature]
38/3/22

The Oath-taking Ordinance 1984

D.B
Hon'ble Mr. Justice Syed Arshad Ali &
Hon'ble Mr. Justice Muhammad Faheem Wali

[Handwritten Signature]
26 MAR 2022
[Handwritten Signature]

G-26

To

The Director General, Health Services,
Khyber Pakhtunkhwa, Peshawar.

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ILLEGAL AND UNLAWFUL ACTION OF THE CONCERNED AUTHORITY BY NOT ALLOWING/GRANTING CONVEYANCE ALLOWANCE TO THE LADY HEALTH WORKERS.

Respected sir,

With due regard it is stated that the appellant is the employee of your good self-department and is serving as Lady Health worker (BPS-05) and performing duties quite efficiently and up to the entire satisfaction of the superiors. It is stated for kind information that conveyance allowance is admissible to all the civil servants and to this a notification. No.FD (PRC) 1-1/2011 dated 14.07.2011 was issued. Later on vide revised notification dated 20.12.2012 the conveyance allowance for employees working in BPS 1 to 15 were enhanced/revised while employees from BPS-16 to 19 have been treated under the previous while enhancing their conveyance and for all civil servants/government servants conveyance is allowed. Respected sir, appellant's other colleagues of the same department in same as well other districts are receiving conveyance allowance as admissible under the law and rules but the concerned without any valid and justifiable reasons are not granting/allowing the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the reason that they are working in the limits of street, village or even with the LHW local jurisdiction which is illogical and against law and discriminatory. Conveyances granted to other department are whether it is vacation and non-vacation department even if they work in local areas and near home but they are allowed. Vacation department employee is Islamabad regarding the same issue filed service appeal No.1888 (R) CS/2016 before the Federal Service tribunal, Islamabad for conveyance allowance which was accepted by the Honorable Service vide its judgment dated 03.12.2018 and the same allowance is extended through khyber pakhtunkhwa service tribunal vides multiple judgments, which manifests that conveyance allowance is part and parcel of the salary and is allowed/admissible to all the civil or government servants throughout the khyber pakhtunkhwa province who are not provided transport facilities meaning thereby objectifying issue with the reason that the lady health workers are working in their local areas that's why they are not entitle to receive conveyance allowance is unprecedented approach of the department. As matter of routine, on daily basis they visit families for medical assistance and indulging in anti-polio campaigns for five days in a month so much so they take infants of the community to EPI center/BHUs/RHC through their own arrangements or by foot and do many other tasks despite non provision of the vehicle or transport facilities etc. that appellant is also entitled to the conveyance allowance as are allowed/granted to the lady health workers of the same and other districts but the concerned authority is not willing to allow/grant the same allowance granted to the same employee throughout the province. Appellant is feeling aggrieved from the inaction of the concerned authority by not allowing conveyance allowance to the lady health workers, appellant prefer this departmental appeal before your good self to redress their legit grievances.

It is therefore, humbly requested that on acceptance of this departmental appeal the concerned authority may very kindly be directed that the conveyance allowance be allowed/granted and the appellant be treated at par with the colleagues of the same and other districts employees as conveyance allowance is admissible to all the government/civil servants in other quarter concerned.

Dated: 06.04.2022

Accepted
HLW

APPELLANT

KHAN MEHBOOBA

Lady Health Worker (BPS-05),
BHU JANGERI, District Karak.

Khan Mehooba