
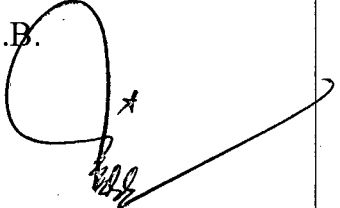


Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 1134/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/07/2022	<p>The appeal of Syed Badshah resubmitted today by Roeeda Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 20.07.2022. Parcha peshi is given to the appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>
20.07.2022		<p>Learned counsel for the appellant present and requested for adjournment on the ground that she has not gone through the record. Adjourned. To come up for preliminary hearing on 19.09.2022 before S.B.</p> <p> (Mian Muhammad) Member (E)</p>

The appeal of Syed Badshah Ex-Associate Professor Government College of Technology Kohat received today i.e. on 23.06.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


- 1- Address of respondent no. 4 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Condonation of delay application may be supported with by an affidavit duly attested by the Oath Commissioner.

No. 2098/S.T,

Dt. 23/6/2022



Roeeda Khan Adv. Pesh.



REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

objection has been  
Removal.

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

Appeal No. 1134 of 2022

Syed Badshah S/o Ex-Associate Professor Government College  
Technology at Kohat.

..... Appellant

**VERSUS**

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary KPK.
- 2) Government KPK through Secretary Industry Commerce & Technical Education Department, Peshawar.
- 3) Government of Khyber Pakhtunkhwa through Secretary Establishment.
- 4) Managing Director KPK TEVTA, Peshawar through its Secretary.

*R/o Old Bazar Road University Town Peshawar*  
Respondents

**INDEX**

S.No.	Description of documents	Annexure	Pages
1.	Memo of Appeal with verification		1-4
2.	Application for condonation of delay		5-6
3.	Addresses of the parties		7
4.	Affidavit		8
5.	Copy of retirement order dated 02/07/2021	A	9
6.	Copy of letter dated 23/08/2021	B	10
7.	Copy of impugned order dated 16/11/2021	C	11
8.	Cop of Departmental appeal and decided order	D&E	12 to 14
9.	Wakalat Nama		

Dated 23/06/2022

Appellant

Through

**Roeeda Khan**  
**Advocate, High Court,**  
**Peshawar.**

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

Appeal No. \_\_\_\_\_ of 2022

Syed Badshah S/o Ex-Associate Professor Government College  
Technology at Kohat.

..... Appellant

**VERSUS**

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary KPK.
- 2) Government KPK through Secretary Industry Commerce & Technical Education Department, Peshawar.
- 3) Government of Khyber Pakhtunkhwa through Secretary Establishment.
- 4) Managing Director KPK TEVTA, old Bara Road University Town Peshawar through its Secretary.

..... Respondents

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER DATED 16/11/2021 WHEREBY AMOUNT RS. 4,62,868 HAS BEEN GRANTED/TRANSFERRED IN THE BANK ACCOUNT OF THE APPELLANT INSTEAD OF RS. 1552320/- IN THE SHAPE OF LEAVE INCASHMENT AGAINST WHICH THE APPELLANT FILED DEPARTMENTAL APPEAL ON 24/01/2022 WHICH HAS BEEN DECIDED ON 23/02/2022 ON NO GOOD GROUNDS.**

Rs.1,089,452/- may kindly be granted /transferred in the bank account of the appellant alongwith all back (2) benefits.

**Respectfully Sheweth:**

**FACTS**

The appellant respectfully submits as under:

- 1) That the appellant has been initially appointed as Lecturer/instructor BPS-17 on 21/10/1987 with respondent Department.
- 2) That after appointment the appellant perform his duty regular and with full devotion and no complaint whatsoever has been made against the appellant.
- 3) That due unblemished record the appellant has been promoted to the post of Assistant Professor BPS-18 on 04/04/1996 and later on promoted to BPS-19 to the post of Associate Professor.
- 4) That the appellant has been retired from service on 02/07/2021. (Copy of retirement order is attached as Annexure-A).
- 5) That the total leave encasement amount of LPR on credit of the appellant is Rs. 15,52,320/- which has been clarified from the letter dated 23/08/2021. (Copy of letter is attached as Annexure-B).
- 6) That on 16/11/2021 the impugned order has been passed against the appellant whereby only rupees 4,62,868/- has been granted/transferred in the bank account of the appellant. Instead of 15,52,320/- and the said impugned order has been communicated to

the appellant at the end of December, 2021. (Copy of the impugned order is attached as Annexure-C.

- 7) That the appellant submitted Departmental Appeal on 24/01/2022 against the impugned order dated 16/11/2021 which has been decided on 23/02/2022 on no good grounds. (Copy of Departmental Appeal and decided orders are attached as Annexure-D&E).
- 8) That feeling aggrieved the appellant prefers the instant Service Appeal before this Hon' able on the following grounds.

### GROUNDS

- A). That the impugned orders dated 16/11/2021 is void and illegal because it has been passed without full filling the codal formalities.
- B). That the impugned order is also void because there is no illegality on part of the appellant.
- C). That the appellant is legally entitled for the total amount of the shape of leave encashment.
- D) That any other grounds will be raised at the time of arguments by prior permission of this Hon' able Court.

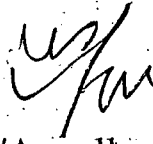
It is therefore most humbly prayed On acceptance of this appeal the impugned order dated 16/11/2021 may kindly be set aside and the

said impugned order But the said impugned order has been communicated to the appellant at the end of December, 2021.

- 1) That there are many Judgment of the supreme Court that cases should be decided on merit rather than on technicality.
- 2) That the matter of the appellant is financial matter which comes under the definition of recurrence cause of action against which no limitation has been counted.

It is, therefore, most humbly prayed that on acceptance of this application the delay if any may be condoned in the interest of justice.

Dated 23/06/2022



Petitioner /Appellant

Through



Roeda Khan  
Advocate, High Court  
Peshawar

### AFFIDAVIT

I, Syed Badshah S/o Ex-Associate Professor Government College Technology at Kohat do hereby solemnly affirm and declare on oath that the content of the above application are true and correct to the best of my knowledge and belief and nothing has been kept secret and concealed from this Hon'ble Tribunal.

  
DEPONENT

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

(5)

Appeal No. \_\_\_\_\_ of 2022

Syed Badshah S/o Ex-Associate Professor Government College  
Technology at Kohat.

..... Appellant

**VERSUS**

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary KPK.
- 2) Government KPK through Secretary Industry Commerce & Technical Education Department, Peshawar.
- 3) Government of Khyber Pakhtunkhwa through Secretary Establishment.
- 4) Managing Director KPK TEVTA, Peshawar through its Secretary.

..... Respondents

**APPLICATION FOR CONDONATION OF DELAY (IF ANY).**

Respectfully Sheweth:

- 1) That the petitioner/appellant has filed the accompanied appeal today in which no date has yet been fixed.
- 2) That on 16/11/2021 the impugned order has been passed against the appellant whereby only rupees 4,62,868/- has been granted/transferred in the bank account of the appellant. Instead of 15,52,320/- and the




said impugned order But the said impugned order has  
been communicated to the appellant at the end of  
December, 2021. (b)


- 3) That there are many Judgment of the supreme Court  
that cases should be decided on merit rather than on  
technicality.
- 4) That the matter of the appellant is financial matter  
which comes under the definition of recurrence cause  
of action against which no limitation has been counted.

It is, therefore, most humbly prayed that on  
acceptance of this application the delay if any may be  
condoned in the interest of justice.

Dated 23/06/2022

  
Petitioner /Appellant

Through

  
**Rooeda Khan**  
**Advocate, High Court**  
**Peshawar**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR.**

Appeal No. \_\_\_\_\_ of 2022

Syed Badshah S/o Ex-Associate Professor Government College  
Technology at Kohat.

..... Appellant

**VERSUS**

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary  
KPK.
- 2) Government KPK through Secretary Industry Commerce &  
Technical Education Department, Peshawar.
- 3) Government of Khyber Pakhtunkhwa through Secretary  
Establishment.
- 4) Managing Director KPK TEVTA, Peshawar through its  
Secretary.

..... Respondents

**ADDRESSES OF THE PARTIES**

**Appellant**

Syed Badshah S/o Ex-Associate Professor Government College  
Technology at Kohat.

**Respondents**

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary  
KPK.
- 2) Government KPK through Secretary Industry Commerce &  
Technical Education Department, Peshawar.
- 3) Government of Khyber Pakhtunkhwa through Secretary  
Establishment.
- 4) Managing Director KPK TEVTA, Peshawar through its  
Secretary.

Dated 23/06/2022

Appellant

Through

**Rooeda Khan**

**Advocate, High Court,  
Peshawar.**

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

Appeal No. \_\_\_\_\_ of 2022

Syed Badshah S/o Ex-Associate Professor Government College  
Technology at Kohat.

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**VERSUS**

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- 4) Managing Director KPK TEVTA, Peshawar through its Secretary.

..... Respondents

**AFFIDAVIT**

I, Syed Badshah S/o Ex-Associate Professor Government College Technology at Kohat do hereby solemnly affirm and declare on oath that the content of the above application are true and correct to the best of my knowledge and belief and nothing has been kept secret and concealed from this Hon'ble Tribunal.

  
DEPONENT



(A) (9)  
GOVERNMENT OF KHYBER-PAKHTUNKHWA  
INDUSTRIES, COMMERCE & TECHNICAL  
EDUCATION DEPARTMENT

retirement  
order

**NOTIFICATION**

No.SOIII(IND)4-11/2021/

244

In pursuance of Sub Section- (2) of Section 13(A) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) read with Sub-Section (3) thereof Mr. Syed Badshah, Associate Professor (BPS-19) Govt: College of Technology, Kohat stands retired from Government Service with effect from 02.07.2021 on attaining sixtieth (60<sup>th</sup>) year of age. as his date of birth is 03.07.1961.

2. In term of provision Rule-20 of the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981 and instructions issued there under by the Provincial Govt. from time to time, sanction is hereby accorded to the encashment of leave in lieu of L.P.R equal to 365 days in favour of the above named officer.


Secretary to Govt. of Khyber Pakhtunkhwa,  
Industries, Commerce & Technical  
Education Department

Dated Pesh, the 04<sup>th</sup> August, 2021

Endst:No.SOIII(IND)4-11/2021

Copy is forwarded to the: -

1. Managing Director. KP-TEVTA
2. District Accounts Officer, Kohat
3. Principal, Govt: College of Technology, Kohat
4. Officer concerned

  
(AKHTAR ALI SHAH)  
Section Officer-III

PRINCIPAL  
Govt: College of Technology  
Kohat.

**GOVERNMENT COLLEGE OF TECHNOLOGY KOHAT**  
College Town, Rawalpindi Road, Kohat (26100)

Phone: 0922-9260063

Web: [www.gctkohat.edu.pk](http://www.gctkohat.edu.pk)

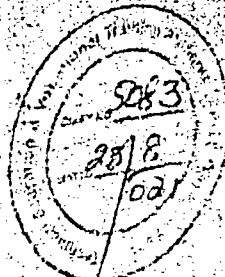


NO. GCT/KT/Acctt./PF/ 802/1

DATED 23/08/2021

To,

The Managing Director  
KP-TEVTA, Head Quarters, Peshawar.



Subject: - PROVISION OF FUND FOR LEAVE ENCASHMENT.

It is submitted that Rs. 1552320/- ( Rupees Fifteen lac Fifty Two Thousand Three Hundred & Twenty Only ) is required under the Head A04114- Leave Encasement of LPR in respect of Engr. Syed Badshah, Ex- Associate Professor, BPS-19 Government College of Technology, Kohat.

Therefore, it is requested that the above mentioned amount may please be released at the earliest. (Copy of retirement Notification & pay slip enclosed).

ENGR. ABDUL GHAFAR  
PRINCIPAL

(20) "C" (11)

# KHYBER PAKHTUNKHWA **TEVTA**

## TECHNICAL EDUCATION & VOCATIONAL TRAINING AUTHORITY

Old Gara road, University Town Peshawar  
Web: www.kp1evta.gov.pk

Dated: 16/11/2021

No. KP-TEVTA/Accounts/ 7408  
To

The Principal,  
Government College of Technology,  
Kohat

Subject: RELEASE OF LEAVE ENCASHMENT

Kindly refer to the subject noted above and state that Rs.462,868/- (Rupees Four hundred sixty two thousand eight hundred and sixty eight only) transfer to your bank account on line in r/o of Engr. Syed Badshah, Associate Professor on a/c to leave encashment for further disbursement.

*[Signature]*  
ASSISTANT DIRECTOR (F&A)  
KP-TEVTA

CID (18)

Date: Jan 24, 2022

To,  
The Secretary Government of Khyber Pakhtunkhwa,  
Industries, Commerce & Technical Education,  
Peshawar

**Subject: Appeal for Refund of Rs. 1,089,452/- unfair and unlawful deduction from Leave Encashment.**

Dear Sir/Madam,

This is in reference to unlawful deduction from Leave Encashment, that I am writing this appeal application for your kind consideration. It is stated that I have been retired w.e.f 02/07/2021 under reference letter No. SOIII(IND) 4-11/2021/241-44 Date 04<sup>th</sup> August, 2021 (Copy enclosed)

I applied for Leave Encashment for amount 1,552,320/- (One Million Five Hundred Fifty Two Thousand Three Hundred and Twenty Only) with letter No. GCT/KT/Acctt/PF/800 Dated 03-08-2021 to Managing Director KP-TEVTA, they delay the case for about 03 months and released Rs. 462,868/- (Four Hundred Sixty Two Thousand Eight Hundred Sixty Eight Only) with letter No. KP-TEVTA/Accounts/7408 Dated 16-11-2021 (Copy enclosed) and deducted Rs: 1,089,452/- (One Million Eight Nine Thousand Four Hundred Fifty Two Only) with following observations. (Copy attached)

1. Para (22) Rs: 125,000/- and (51) Rs: 62,480/- Utilization of TADA.

**My Response:** I visited BTE office for official matters which were critical in nature and they were requiring my follow-up with concern officials for smooth implementation of activities. I visited BTE for registration, corrections, delay in students result and other problems of DAE students. Being Head/Principal of GTVC, I visited TTB office to start other Trades i.e. Surveyor, Civil Draftsman etc, to increase the students enrolment. As there was only one Trade Electrician running in GTVC. (Copy attached)

2. Para (25):- Tax Deduction at the rate of 10% rather than 6% from Leave Encashment:

**My Response:** I deducted the Income Tax @6% as mentioned in 2nd shift Policy i.e. S.No: 15 General Instructions (IX) but TEVTA deducted @10% from Leave Encashment.

3. Para (23) Rs: 423,790/- & Para (52) Rs: 453,510/- (Principal remuneration from 2nd Shift Program)

**My Response:** In 2nd shift policy there were Three Options at S.No 10

- a. Rs. 3,000/Class, i.e Rs: 9,000/Technology
- b. Minimum Initialed Basic Pay
- c. Maximum Running Pay rendered by classes i.e. teaching

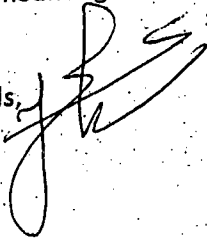
I drawn remunerations as per option (b) **Minimum Initialed Basic Pay** but TEVTA deducted from my Leave Encashment i.e. 423,790/- & Rs: 453,510/- which is unfair, unlawful and not in line with policy guidelines set for 2nd Shift.

399  
24-01-2022

(13)

You are therefore kindly requested to take notice of this and relevant concerns may please be directed to refund my arrears amounting to PKR 1,089,452/- (One Million Eighty Nine Thousand Four Hundred Fifty Two Only).

Thanks and best regards,  
Eng. Syed Badshah  
Ex-Associate Professor  
G.C.T Kohat  
Cell: 0300-5966581



My Bank details for transferring or depositing my arrears are as under:  
A/C title: Syed Badshah  
CNIC: 11201-0394338-1  
A/C No: 3011722127  
Bank Name: National Bank of Pakistan  
Branch: Hayatabad Branch Peshawar



Dated: 23/12/2022

The Section Officer-III,  
Industries, Commerce and Technical Education Deptt.,  
Government of Khyber Pakhtunkhwa.

**Subject: APPEAL FOR REFUND OF RS. 1,089,452/- UNFAIR AND UNLAWFUL DEDUCTION FROM LEAVE ENCASHMENT.**

I am directed to refer to your letter No. SOIII(IND)4-76/2021/1373 dated 25-01-2022 on the subject noted above and to inform that an amount of 1,089,452/- was outstanding against Engr. Syed Badshah (Rtd), Associate Professor, Government College of Technology, Kohat on account of excess/irregular drawl of remuneration from 2<sup>nd</sup> shift fund and TA/DA from Government Ex-chequer as pointed by the Audit team. The Departmental Account Committee (DAC) in its meeting held on 01-04-2021, recommended recoveries of the un-authorized drawls. Moreover, the above retired officer provided on stamp paper that the outstanding / overpaid amount may be deducted from his pension/leave encashment (Copy enclosed)

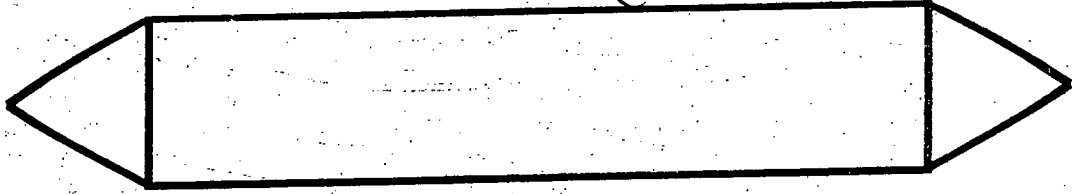
In pursuance of the decision of DAC as well as written statement of the above retired officer, KP-TEVTA recovered/deducted the overpaid/irregular amount from his leave encashment accordingly.

*[Signature]*  
ASSISTANT DIRECTOR (B&A)

Encl: No. & date even.  
Copy to:-

Engr. Syed Badshah, Ex-Associate Professor, Government College of Technology,  
Kohat.

ASSISTANT DIRECTOR (B&A)



مورخہ

مقدمہ

دعویٰ

جرم

2 منجانب

بنام کونست  
KPK

سید اسد

### باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام کے لیے اور

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

20

ماہ

23

المرقوم

العبد گ واہ العبد

کے لئے منظور ہے۔

سید اسد

مقام