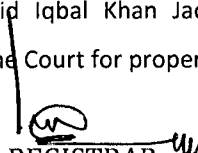
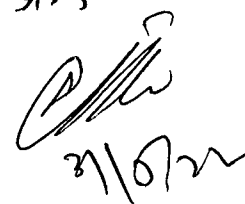




Form- A  
FORM OF ORDER SHEET

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

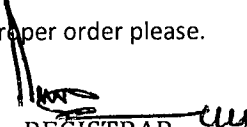
Execution Petition No. \_\_\_\_\_ 150/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.01.2022	<p>The joint execution petition of Mr. Sher Afzal Khan &amp; 9 others submitted today through attorney Mr. Rashid Iqbal Khan Jadoon may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	31-5-2022  31/07/22	<p>This execution petition be put up before touring Single Bench at A.Abad on <u>13.06.2022</u>. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
13.06.2022		<p>Petitioner alongwith counsel present. Mr. Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Naseeb Khan SO and Sohail Ahmad Litigation Officer for the respondents present.</p> <p>Notices were issued to the respondents but the same were not served upon them. Today copy of the said notices were given to the representative of respondent No.2 for doing the needful. Adjourned. Notices be issued to remaining respondents for the date fixed. To come up for implementation report on 18.08.2022 before S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E) Camp Court A/Abad</p>

Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. \_\_\_\_\_ 150/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.01.2022	<p>The execution petition of Mr. Sher Afzal Khan &amp; 9 others submitted today through attorney Mr. Rashid Iqbal Khan Jadoon may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before touring Single Bench at A.Abad on _____. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p style="text-align: right;">CHAIRMAN</p>

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Execution Petition No: 150 of 2022

Sher Afzal Khan and 09 others

Petitioners

**VERSUS**


1. District Comptroller of Accounts, Abbottabad.
2. District Education Officer, Elementary & Secondary Education Department District Abbottabad.
3. Accountant General Khyber Pakhtunkhwa Peshawar.
4. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.

Respondents

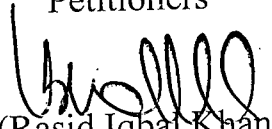
EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT DATED 12/07/2021 PASSED IN APPEAL NO 12889 OF 2020 "AS A JUDGMENT IN REM" BY THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

**INDEX**

S.No	DESCREPTION OF DOCUMENTS	ANNEXURES	PAGE NO
1	Memo; of execution petition and Affidavit	----	01 to 05
2	Copy of judgment dated 12/07/2021	A	06 to 15
3	Power of Attorney	B	16 to 18

  
(Sher Afzal Khan and 09 others)  
Petitioners

Through

  
(Rasid Iqbal Khan)  
Attorney Abbottabad

Dated 16/03/2022

①

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Execution Petition No: 150 of 2022



- 1) Sher Afzal Khan S/O Ajab Khan, **Retired** SST/HM Government Middle School Tootni, Abbottabad. Resident of village Ghumawan, Post Office Nawan Shehr, Tehsil and District, Abbottabad. Date of Retirement 08/05/2020, Pension Computer No 13256, CNIC No 13101-0935878-7, cell No 0323-9814087.
- 2) Muhammad Nawaz Khan S/O Muhammad Aslam Khan, **Retired** SST/HM Government Middle School Tarhana, Abbottabad. Resident of village Tannan, Post Office, Qalandar Abad, Abbottabad. Date of Retirement 04/09/2020, Pension Computer No 6814, CNIC No 13101-6964703-7, cell No 0310-5540325.
- 3) Farèed Shah S/O Shah Muhammad Ghous, **Retired HM** Government High School Maira Rehmat Khan, Abbottabad. Resident of village & Post Office, Bandi Dhundan, Abbottabad. Date of Retirement 30/03/2020, Pension Computer No 6794, CNIC No 13101-9908765-5, cell No 0331-4922789.
- 4) Maroof Khan S/O Mir Zaman Khan, **Retired** Senior C.T teacher, Government Centennial Model Secondary School (Boys) Abbottabad. Resident of, village Maira Mandroach, Post Office Nawan Shehr, Tehsil and District, Abbottabad. Date of Retirement 15/04/2016, Pension Computer No 6686, CNIC No 13101-0906413-1, cell No 0323-9823136.
- 5) Muhammad Sarwar Khan S/O Mahabat Khan **Retired** Senior C.T teacher, Government Centennial Model Secondary School (Boys) Abbottabad. Resident of, village Ghumawan, Post Office Nawan Shehr, Tehsil and District, Abbottabad. Date of Retirement 03/04/2017, Pension Computer No 7471, CNIC No 13101-0820656-1, cell No 0323-9827185.
- 6) Syed Arif Hussain Shah S/O Syed Makhdoom Shah, **Retired** SST/HM Government Middle School Tootni, Abbottabad. Resident of, Mohallah Syyedan, village and Post Office Kakul, Tehsil and District, Abbottabad. Date of Retirement 06/06/2018, Pension Computer No 12951, CNIC No 13101-0945137-7, cell No 0314-5702824.
- 7) Gohar Rehman S/O Khani Zaman, **Retired** Senior C.T teacher, Government High School No 4 (Boys) Abbottabad. Resident of, Arslan Town, Behind New Sabzi Mandi, Tehsil and District, Abbottabad. Date of Retirement 01/03/2018, Pension Computer No 8842, CNIC No 13101-6150646-3, cell No 0315-561859.

- 8) Ghulam Hassan S/O Muhammad Ismail, **Retired** Primary School teacher, under Drawing Disbursing Officer SDEO (M) Tehsil & District Abbottabad. Resident of, village Maira Mandroach, Post Office Nawan Shehr, Tehsil and District, Abbottabad. Date of Retirement 01/08/2017, Pension Computer No 9780, CNIC No 13101-0830977-5, cell No 0312-7998622.
- 9) Faizur Rehman Khan S/O Muhammad Rafique, **Retired** Senior C.T teacher Government High School Dhamtour (Boys) Abbottabad., R/O Village Nurdubba, P.O Nawan Shehr, Tehsil & District Abbottabad. Date of Retirement 01/09/2017, Pension Computer No 7416, CNIC No 13101-0990956-9, cell No 0310-5803082.
- 10) Abdul Khaliq S/O Abdul Qayyum, **Retired** Primary School teacher, under Drawing Disbursing Officer SDEO (M) Tehsil & District Abbottabad. Resident of, village Maira Mandroach, Post Office Nawan Shehr, Tehsil and District, Abbottabad. Date of Retirement 29/01/2021, Pension Computer No 10579, CNIC No 13101-1827135-3, cell No 0321-9974323.

Petitioners

**VERSUS**

- 1 District Comptroller of Accounts, Abbottabad.
- 2 District Education Officer, Elementary & Secondary Education Department District Abbottabad.
- 3 Accountant General, Khyber Pakhtunkhwa Peshawar.
- 4 Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.

Respondents

EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT DATED 12/07/2021 PASSED IN APPEAL NO 12889 OF 2020 "AS A JUDGMENT IN REM" BY THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

**PRAYER**

IT IS RESPECTFULLY PRAYED THAT RESPONDENTS MAY PLEASE BE DIRECTED, TO REFUND ALL AMOUNT/ARREARS OF CONVEYANCE ALLOWANCE, WHICH WERE DEDUCTED

3

FROM THE SALARIES OF PETITIONERS, IN SUMMER AND WINTER VACATIONS, IN PURSUANCE OF JUDGMENT DATED 12/07/2021 PASSED IN APPEAL NO 12889 OF 2020 "AS A JUDGMENT IN REM" PASSED BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Respectfully Sheweth,




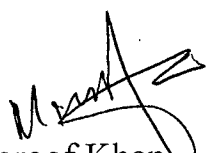




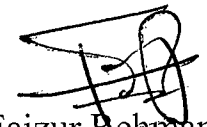
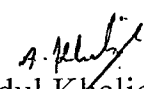
- 1) That all the petitioners, were serving in Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Abbottabad and they were working as teachers in Abbottabad District and they all are now retired teachers.
- 2) That respondents have deducted their conveyance allowance from petitioners' salaries in winter and summer vacations illegally, the same impugned act was challenged before Khyber Pakhtunkhwa Service Tribunal Peshawar in thousands' individual service appeals, whereupon this Honourable Tribunal was pleased to accept all the service appeals, and passed a "**Judgment in Rem**" on 12/07/2021 and passed its consolidated Judgment in main appeal no 12889 of 2020 titled "Jalalud Din VS Government of KP" and decided all other same nature appeals in the said order. Copy of judgment is annexed as Annexure "A".
- 3) That respondents have successfully paid, arrears of deducted conveyance allowance to thousands other in-service teachers, but delaying, denying the same to the petitioners, on, one or the other pretext.
- 4) That all the petitioners are aggrieved from deduction of their conveyance allowance, and they came to implement the above judgment dated 12/07/2021, through filing of instant joint execution petition, to avoid the huge burden of separate litigation/ implementation of each petitioner, upon this Honourable Tribunal as well as the office of the Registrar of this Tribunal.

5) That there is no suspension order, against under executed judgment dated 12/07/2021, from Apex Court is available nor heard, but respondents are not implementing the same in their smooth routine official functions, despite of already implemented other cases and delaying it in arbitrary manner, which is illegal and on the same reason, instant execution petition is being filed.

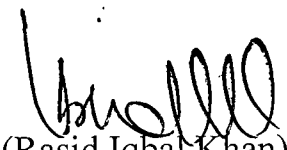
It is respectfully prayed that respondents may please be directed, to refund all amount/arrears of Conveyance Allowance, which were deducted from the salaries of petitioners, in Summer and Winter vacations, in pursuance of Judgment Dated 12/07/2021 passed in Appeal No 12889 of 2020 "As a Judgment in Rem" passed by Khyber Pakhtunkhwa Service Tribunal Peshawar.

Any other relief for which the petitioners are entitled and same is not asked/prayed specifically may kindly be granted in the favour of the petitioners too.

Petitioners

- |   |  |   |
|---|--|---|
|  |   |  |
| 1) Sher Afzal Khan<br>13101-0935878-7   | 2) Muhammad Nawaz Khan<br>13101-6964703-7  | 3) Fareed Shah<br>13101-9908765-5   |
|  |  |  |
| 4) Maroof Khan<br>13101-0906413-1   | 5) Muhammad Sarwar Khan<br>13101-0820656-1   | 6) S. Arif. H. Shah<br>13101-0945137-7  |
|  |   |  |
| 7) Gohar Rehman<br>13101-6150646-3  | 8) Ghulam Hassan<br>13101-0830977-5  | 9) Faizur Rehman Khan<br>13101-0990956-9  |
|  |  |   |
| 10) Abdul Khaliq<br>13101-1827135-3   |  |   |

Through

  
(Rasid Iqbal Khan)  
Attorney Abbottabad

Dated 16/03/2022

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

5

Execution Petition No: of 2022

Sher Afzal Khan and 09 others

Petitioners

**VERSUS**

District Comptroller of Accounts, Abbottabad & 03 others



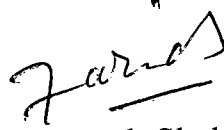
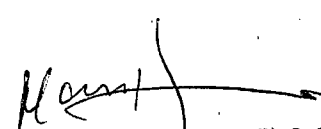

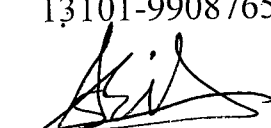
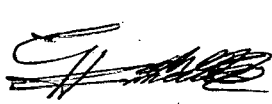


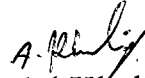
Respondents

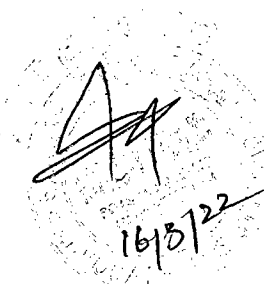
**EXECUTION PETITION**

**JOINT AFFIDAVIT**

We, all petitioners, in the titled joint execution petition wherein our all relevant necessary particulars are entered, we, all as deponents do here by affirm on oath that contents of instant execution petition (for grant of arrears of conveyance allowance, which were deducted from the salaries of petitioner in summer & winter vacations) is correct and true according to our best knowledge and belief and nothing has been suppressed from this Honourable Tribunal and it is also declared on oath that respondents did not grant the same yet and instant execution/ implementation petition is first petition & same nature of any other petition is not pending before this Honourable Tribunal.

DEPONENTS

- |  |  |   |
|--|--|---|
| <br>1) Sher Afzal Khan<br>13101-0935878-7 | <br>2) Muhammad Nawaz Khan<br>13101-6964703-7  | <br>3) Fareed Shah<br>13101-9908765-5        |
| <br>4) Maroof Khan<br>13101-0906413-1     | <br>5) Muhammad Sarwar Khan<br>13101-0820656-1 | <br>6) S. Arif . H . Shah<br>13101-0945137-7 |
| <br>7) Gohar Rehman<br>13101-6150646-3    | <br>8) Ghulam Hassan<br>13101-0830977-5         | <br>9) Faizur Rehman Khan<br>13101-0990956-9 |
| <br>10) Abdul Khaliq<br>13101-1827135-3   |  |   |

  
16/5/22



Annexure A

6

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

APPEAL NO. 12889 /2020

Khyber Pakhtunkhwa  
Service Tribunal

Drawy No. 13368

Dated 27/10/20

Mr. Jalalud Din, SCT (BPS-16),  
GHSS Asbanr, Dir Lower.



**APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director of (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

**RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS 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 appeal the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted previously 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 Elementary & Secondary Education Department as SCT (BPS-16) quite efficiently and up to the entire satisfaction of their superiors.
- 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

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,  
PESHAWAR.

Service Appeal No. 12889/2020  
Date of Institution ... 27.10.2020  
Date of Decision ... 12.07.2021



Jalalud Din, SCT (BPS-16),  
GHSS Asbanr, Dir Lower

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary,  
Khyber Pakhtunkhwa, Peshawar and four others. (Respondents)

Mr. NOOR MUHAMMAD KHATTAK,  
Advocate

For appellant.

MR. JAVED ULLAH,  
Assistant Advocate General

For respondents.

MR. SALAH-UD-DIN  
MR. ATIQ-UR-REHMAN WAZIR

MEMBER (JUDICIAL)  
MEMBER (EXECUTIVE).

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through this single judgment, we intend to dispose of the instant Service Appeal as well as the clubbed appeals mentioned in appendix-A consisting of 141 sheets, appended with this judgment as its part, as all the appeals involve similar questions of law and facts.

2. The appellant has filed the instant Service Appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned action of the respondents, making deduction of conveyance allowance from the salaries of the appellant during the summer/winter vacations and not responding

**ATTESTED**  
  
MEMBER  
Khyber Pakhtunkhwa  
Services Tribunal  
Peshawar

to the departmental appeal of the appellant within the statutory period of ninety days.

3. In order to have a clear picture of the matter in issue, the admitting note dated 18.06.2021 of the instant appeal is reproduced as below:-

"Counsel for the appellant present.

Due to influx of abnormally large number of service appeals by individual appellants against the same set of respondents, and including one and the same subject matter with common questions of fact and law; the Registrar of this Tribunal, vide order dated 27.05.2021 on a miscellaneous application, was required to prepare a chronological list of all the appeals obviously for the sake of their management in a way to make their disposal doable by a single judgment instead of hearing each and every appeal separately for disposal by separate orders. For merger of the order dated 27.05.2021, contents thereof are reproduced below:-

*Application for early hearing has been put up by the Reader with file. Counsel for the appellant present and heard.*

*Learned counsel for the appellant seeks early hearing of Appeals No. 13797/2020 and 38 others. It has been brought into the notice of this Bench that this appeal pertains to grievance of the appellant relating to grant of Conveyance Allowance and thousands of similar appeals are pending before this Tribunal at preliminary*

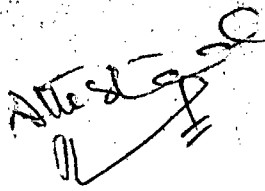
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**ATTESTED**  
*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa


hearing stage. It would result in abuse of the process of Tribunal, if the similar appeals are separately heard despite being the similarity of claim in all the appeals. Therefore, it would be in the fitness of things to club all appeals with one the oldest in order of chronology in light of the time of institution. The Worthy Registrar of this Tribunal has been called and assigned the duty that list of all the appeals be prepared in chronological order and all the appeals be clubbed with the oldest one, and be submitted for preliminary hearing before this Bench on 18.06.2021, irrespective of the previous dates given on the diary. This application is disposed of accordingly.

The order dated 27.05.2021 as reproduced above has been placed on this file vide order dated 17.06.2021, as the appeal in this file is the oldest in chronological order from the date of institution. Rest of appeals enumerated/ described in the chronological list making part of this file, due to commonalty of the subject matter and questions of law and facts, are clubbed with the appeal at hand for disposal conjointly to prevent multiplicity of processes, when judgment passed in a single appeal will enable to settle the particular issue of conveyance allowance similarly in respect of the other appellants who have filed appeals individually because of procedural constraints.

Attested  


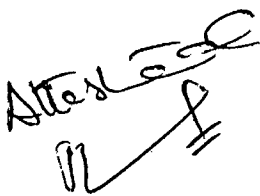
Preliminary arguments have been heard. A brief history of Conveyance Allowance as

**ATTESTED**  
  
 REGISTRAR  
 TRIBUNAL

submitted by learned counsel for the appellant has been placed on this file. The copy of judgment dated 11.11.2019 in Service Appeal No. 1452/2019 titled "Maqsad Hayat Versus the Government" has also been annexed with the said brief. According to which a Single Bench of this Tribunal disposed of the said appeal while relying on the judgment of the Hon'ble Peshawar High Court Peshawar in Writ Petition No. 3162-P/2019 with the direction for implementation of the said judgment by the respondents within shortest possible time. The course was also kept open for the appellant to seek remedy in accordance with law, in case his grievance is not redressed by the respondents within reasonable time. There is no cavil to the resolution of matter by judgment dated 11.11.2019 but the likelihood of multiplicity of proceedings cannot be ruled out unless a self-speaking judgment is passed by the Tribunal under due course of law to settle the matter once for all.

The proceedings for hearing will take-place in appeal in hand and shall be deemed to have been applied to clubbed appeals without repetition/replication.

During pendency of this appeal, if any fresh appeal is instituted involving similar questions of law and facts relating to the Conveyance Allowance against the same departmental authorities, office shall also club the same with this appeal.

Attested  


ATTESTED  
  
 EXAMINER  
 Khayr-ud-Din  
 Service Tribunal  
 Peshawar

Points raised need consideration. The appeal, alongwith all clubbed appeals, is admitted to regular hearing. The appellant in this appeal is directed to deposit security and process fee within 10 days. Thereafter, notices of this appeal alongwith list of clubbed appeals be given to the respondents but their comments/written reply as filed in connection with appeal in hand shall be deemed to have been filed in all the clubbed appeals. There is no need of filing reply/comments individually in each and every clubbed appeal. Similarly, the appellants in all the clubbed appeals are exempted from the deposit of security and process fee. The respondents shall submit written reply/comments, as discussed above, in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 12.07.2021 before the D.B"

J. J.

Attested  
A. I.

4. Precise facts of the Instant Service Appeal as well as the clubbed Service Appeals are that the appellants are employees of Education Department, who were receiving conveyance allowance as admissible under the law and rules but the respondents without any valid and justifiable reasons stopped/deducted the payment of conveyance allowance for the period of summer as well as winter vacations on the ground that as the said vacations is leave period, therefore, the employees are not entitled to be paid conveyance allowance during the summer/winter vacations. After availing the remedy of departmental appeal, the appellants have approached

ATTESTED

A. I.  
A. I.  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

this Tribunal through filing of the appeals for redressal of their grievance.

5. Comments on behalf of respondents submitted, which are placed on file.

6. Learned counsel for the appellant has contended that conveyance allowance is being paid by both provincial as well as central government to the civil servants, in order to accommodate them in their travel expenses incurred by them in travelling to and from the workplace; that the summer and winter vacations are not granted upon the request of the employees, rather they remain available for any call of duty, therefore, the respondents are wrong in considering the summer and winter vacations as kind of leave for deduction of conveyance allowance for the said period; that the civil servants of vacation departments are allowed only 01 leave in a month and thus earned leave for 12 days per year is credited to their account, while civil servants of other departments can avail 04 leave in a month, making 48 days earned leave as credited to their account, therefore, the respondents are required to consider the said aspect, while dealing with conveyance allowance of the appellants; that action of the respondents is in utter violation of Article-4 and Article-25 of the Constitution of Islamic Republic of Pakistan 1973; that conveyance allowance is part and parcel of salary/pay and the appellant is entitled to its payment, even during the period of summer/winter vacations. Reliance was placed on an unreported judgment of august Peshawar High Court, Peshawar in Writ Petition No. 3162-P/2019 titled "Akhtar Hussain and 607 others Versus Government of Khyber Pakhtunkhwa", order/judgment dated 11.11.2019 of Khyber Pakhtunkhwa Service Tribunal rendered in Service Appeal No. 1452/2019 titled "Maqсад Hayat Versus Government of Khyber Pakhtunkhwa", judgment of Federal Service Tribunal in

*Attested*  
*[Signature]*

ATTESTED  
*[Signature]*  
KHYBER PAKHTUNKHWA  
Service Tribunal

Appeal No. 1888(R) CS/2016, 2020 PLC (C.S) 741 [Supreme Court (AJ&K)] and 2020 PLC (C.S) 747.

7. Respective learned counsel for the appellants in the clubbed Service Appeals have adopted the arguments advanced by the learned counsel for the appellant in the instant appeal.

8. Conversely, learned Assistant Advocate General for the respondents has contended that the teaching staff remains on leave during the period of winter and summer vacations and do not perform any duty during the said period, therefore, they are not entitled to any conveyance allowance during the summer/wihter vacations; that being employees of vocational department, the appellants cannot claim any conveyance allowance during the vacation period and in respect of conveyance allowance, they cannot be treated at par with civil servants of non vocational departments. Reliance was placed on 2020 SCMR 1689 and 2020 SCMR 98.

9. We have heard the arguments of learned counsel for the appellants as well as learned Assistant Advocate General for the respondents and have perused the record.

10. The controversy, which needs to be resolved, is with regard to the issue as to whether the appellants, who are employees of vacation department, are entitled to payment of conveyance allowance during the period of summer/winter vacation or not. In order to appreciate the matter in a proper legal way, it would be advantageous to reproduce Clause-(b) of FR-82 as below:-

*"(b) Vacation counts as duty but the period of total leave in rules-77, 81 (a) and 81 (b) should ordinarily be reduced by one month for each year of duty in which the government servant availed himself of the vacation. If a part only of the vacation has been taken in any year, the period to be*

*Attested*

**ATTESTED**  
*[Signature]*  
EXAMINER  
Director, Jammu & Kashmir  
Service Tribunal



*deducted will be a fraction of a month equal to the proportion which the part of the vacation taken bears to the full period of the vacation".*

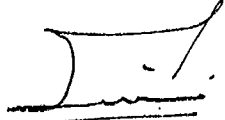
In light of Clause (b) of FR-82, it is crystal clear that vacation counts as duty. Even during vacation, the employees of Education Department remain on call for any duty assigned to them. Moreover, the summer vacations are not granted on demand or option of the employees of the Education Department, rather the period of their earned leave is curtailed by one month for each year. The respondents are wrong in considering the summer/winter vacations as kind of leave. The conveyance allowance is admissible to the government servants who are on duty and in view of clause (b) of FR-82, the summer/winter vacation period also count as duty, therefore, the respondents are not justified in depriving the employees of the Education Department from the receipt of conveyance allowance during summer/winter vacations. The deduction of conveyance allowance from the salaries of the appellants and other teaching staff during summer/winter vacations is in violation of their rights available to them under the Constitution of Islamic Republic of Pakistan 1973. Reliance is placed on 2020 PLC (C.S) 741. The judgment dated 17.10.2017 passed by Federal Service Tribunal in identical nature appeals bearing No. 289 to 298 (R) C.S/2015 has been upheld by august Supreme Court of Pakistan vide order dated 13.07.2018 passed in CPs No. 4957 to 4966 of 2017. Furthermore, this Tribunal has also granted such relief to other employees of Education Department in identical nature appeals.

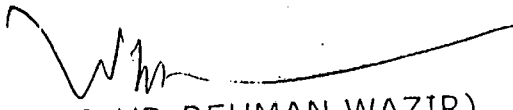
11. In light of the above discussion, the appeal in hand as well as clubbed appeals mentioned in the appendix-A stands allowed and the respondents are directed not to deduct the conveyance allowance from the salaries of the appellants during summer/winter vacations. The conveyance allowance if any,

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Service Tribunal


already deducted should be reimbursed to the appellants forthwith. The instant judgment shall be considered as judgment *in rem*, therefore, the respondents should pay the said allowance to all similarly placed employees of the Education Department so as to avoid the discrimination under Article-4 & 25 of the Constitution of Islamic Republic of Pakistan as well as unnecessary litigation. Attested copy of this judgment be placed on files of all the clubbed appeals mentioned in appendix-A. Parties are left to bear their own costs. This file as well as files of clubbed Service Appeals mentioned in appendix-A be consigned to the record room.

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12.07.2021

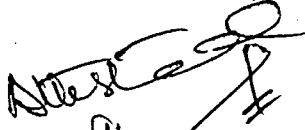
  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

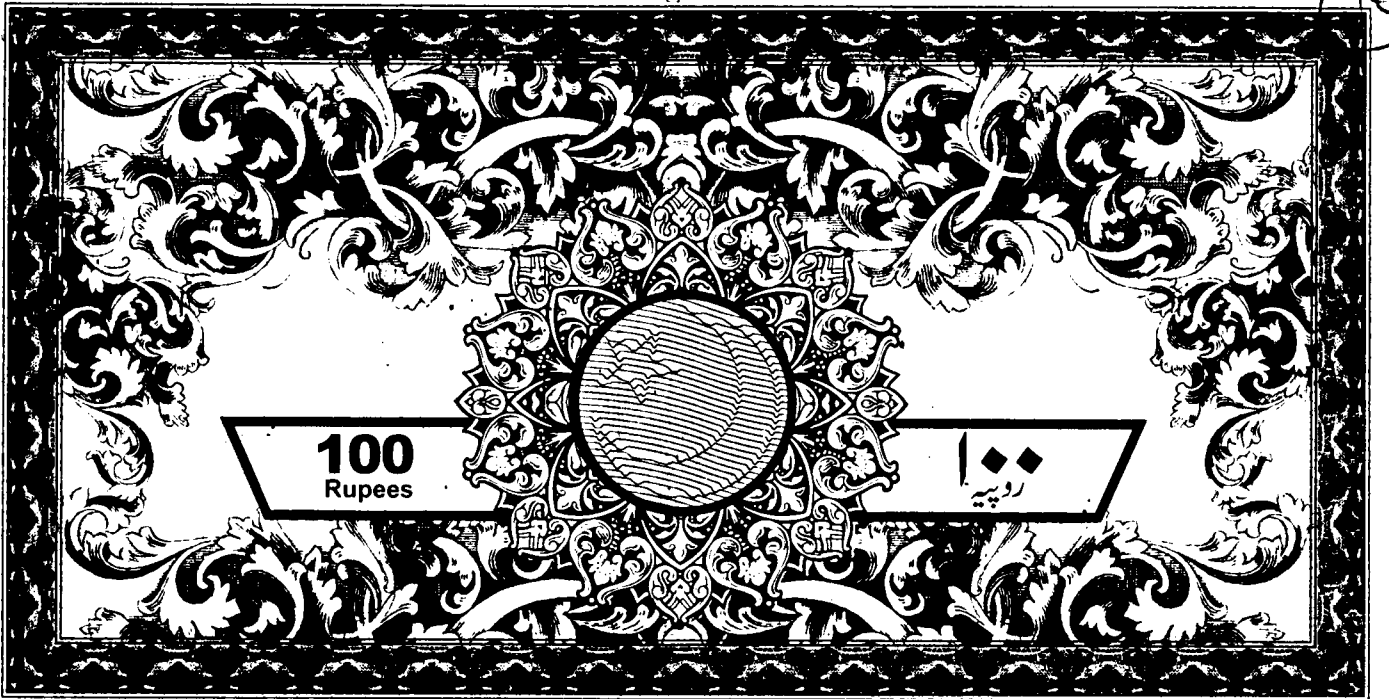
  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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Attestor



Annexure B

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No: \_\_\_\_\_ of 2022

Sher Afzal Khan and 09 others

Petitioners

VERSUS

District Comptroller of Accounts, Abbottabad and 3 others.

Respondents

EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT DATED 12/07/2021 PASSED IN APPEAL NO 12889 OF 2020 "AS A JUDGMENT IN REM" PASSED BY KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

POWER OF ATTORNEY

NAME & OTHER PARTICULARS OF ATTORNEY

Mr Rashid Iqbal Khan Jadoon S/o Shamarez Khan Jadoon resident of Street no 15, Mohallah Khawaja Ahmad Khail, Jadoon Colony, Link Road Narrian Cantt; Tehsil and District Abbottabad. CNIC No 13101-0944593-9. Cell no 0333-5025002

We

- 1) Sher Afzal Khan S/O Ajab Khan, Retired SST/HM Government Middle School Tooni, Abbottabad. Resident of village Ghumawan, Post Office Nawan Shehr, Tehsil and District, Abbottabad. Date of Retirement 08/05/2020, Pension Computer No13256, CNIC No 13101-0935878-7, cell No 0323-9814087.
- 2) Muhammad Nawaz Khan S/O Muhammad Aslam Khan, Retired SST/HM Government Middle School Tarhana, Abbottabad. Resident of village Tannan, Post Office, Qalandar Abad, Abbottabad. Date of Retirement 04/09/2020, Pension Computer No 6814, CNIC No 13101-6964703-7, cell No 0310-5440325.
- 3) Fareed Shah S/O Shah Muhammad Ghous, Retired <sup>HM</sup>SST, Government High School Maira Rehmat Khan, Abbottabad, Resident of village & Post Office, Bandi Dhundan, Abbottabad. Date of Retirement 30/03/2020, Pension Computer No 6794, CNIC No 13101-9908765-5, cell No 0331-4922789.

*[Handwritten signature]*  
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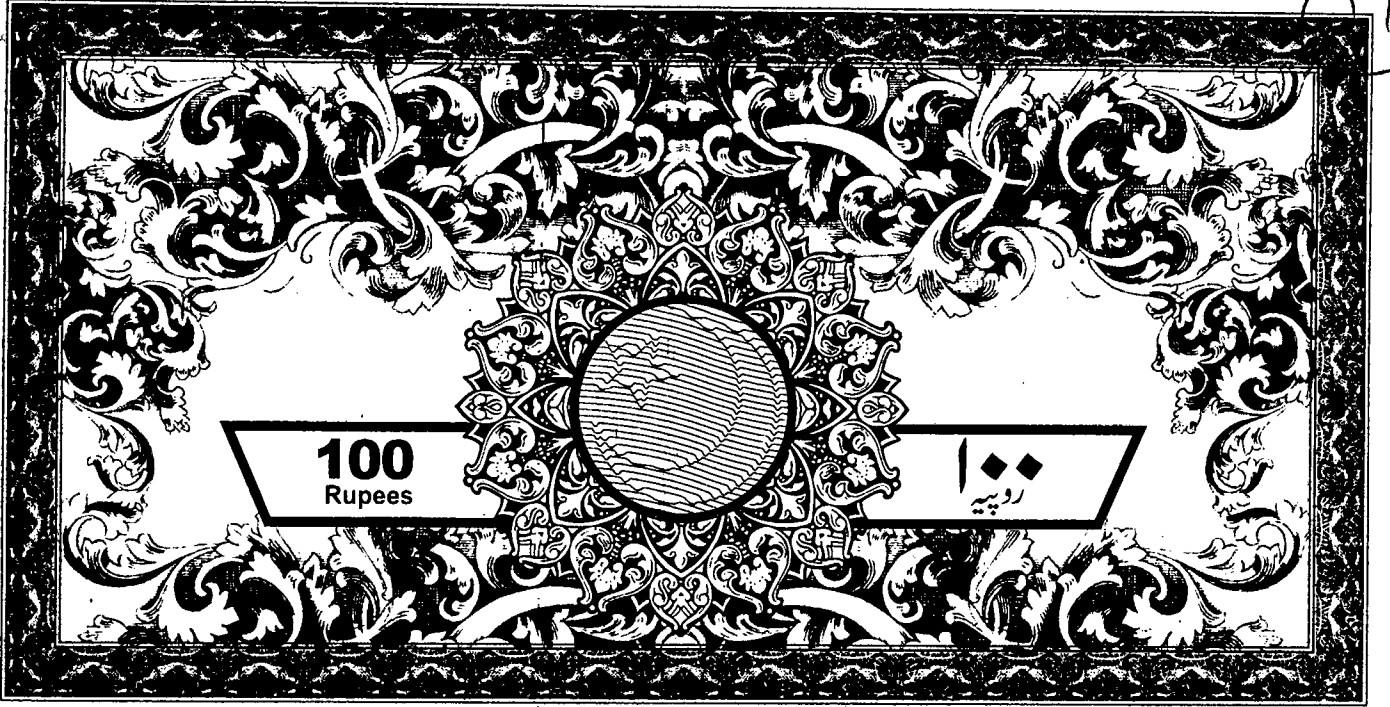
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- 4) Maroof Khan S/O Mir Zaman Khan, **Retired** Senior C.T teacher, Government Centennial Model Secondary School (Boys) Abbottabad. Resident of, village Maira Mandroach, Post Office Nawan Shehr, Tehsil and District, Abbottabad. Date of Retirement 15/04/2016, Pension Computer No 6686, CNIC No 13101-0906413-1, cell No 0323-9823136.
- 5) Muhammad Sarwar Khan S/O Mahabat Khan **Retired** Senior C.T teacher, Government Centennial Model Secondary School (Boys) Abbottabad. Resident of, village Ghumawan, Post Office Nawan Shehr, Tehsil and District, Abbottabad. Date of Retirement 03/04/2017, Pension Computer No 7471, CNIC No 13101-0820656-1, cell No 0323-9827185.
- 6) Syed Arif Hussain Shah S/O Syed Makhdoom Shah, **Retired** SST/HM Government Middle School Tootni, Abbottabad. Resident of, Mohallah Syyeddan, village and Post Office Kakul, Tehsil and District, Abbottabad. Date of Retirement 06/06/2018; Pension Computer No 12951, CNIC No 13101-0945137-7, cell No 0314-5702824.
- 7) Gohar Rehman S/O Khani Zaman, **Retired** Senior C.T teacher, Government High School No 4 (Boys) Abbottabad. Resident of, Arslan Town, Behind New Sabzi Mandi, Tehsil and District, Abbottabad. Date of Retirement 01/03/2018, Pension Computer No 8842, CNIC No 13101-6150646-3, cell No 0315-661859.
- 8) Ghulam Hassan S/O Muhammad Ismail, **Retired** Primary School teacher, under Drawing Disbursing Officer SDEO (M) Tehsil & District Abbottabad. Resident of, village Maira Mandroach, Post Office Nawan Shehr, Tehsil and District, Abbottabad. Date of Retirement 01/08/2017, Pension Computer No 9780, CNIC No 13101-0830977-5, cell No 0312-7998622.
- 9) Faizur Rehman Khan S/O Muhammad Rafique, **Retired** Senior C.T teacher Government High School Dhamtour (Boys) Abbottabad., R/O Village Nurdubba, P.O Nawan Shehr, Tehsil & District Abbottabad. Date of Retirement 01/09/2017, Pension Computer No 7416, CNIC No 13101-0990956-9, cell No 0310-5803082.
- 10) Abdul Khaliq S/O Abdul Qayyum, **Retired** Primary School teacher; under Drawing Disbursing Officer SDEO (M) Tehsil & District Abbottabad. Resident of, village Maira Mandroach, Post Office Nawan Shehr, Tehsil and District, Abbottabad. Date of Retirement 29/01/2021, Pension Computer No 10579, CNIC No 13101-1827135-3, cell No 0321-9974323.

deponents, do hereby solemnly affirm and declare on oath that we all appoint above named as attorney to act on our behalf to appear, plead for us in the titled case in which the same may be tried or heard and any other proceedings arising out of or connected herewith and he would be competent to exercise all the powers which we ourselves hold as petitioners, he is authorized all powers, to institute case, to submit any kind of application or reply, argue the case, in short, all powers or authority which we are entitled being petitioners, would be transferred to above named attorney through instant power of attorney.

Sworn at Abbottabad Dated this 16th day of March, 2022.

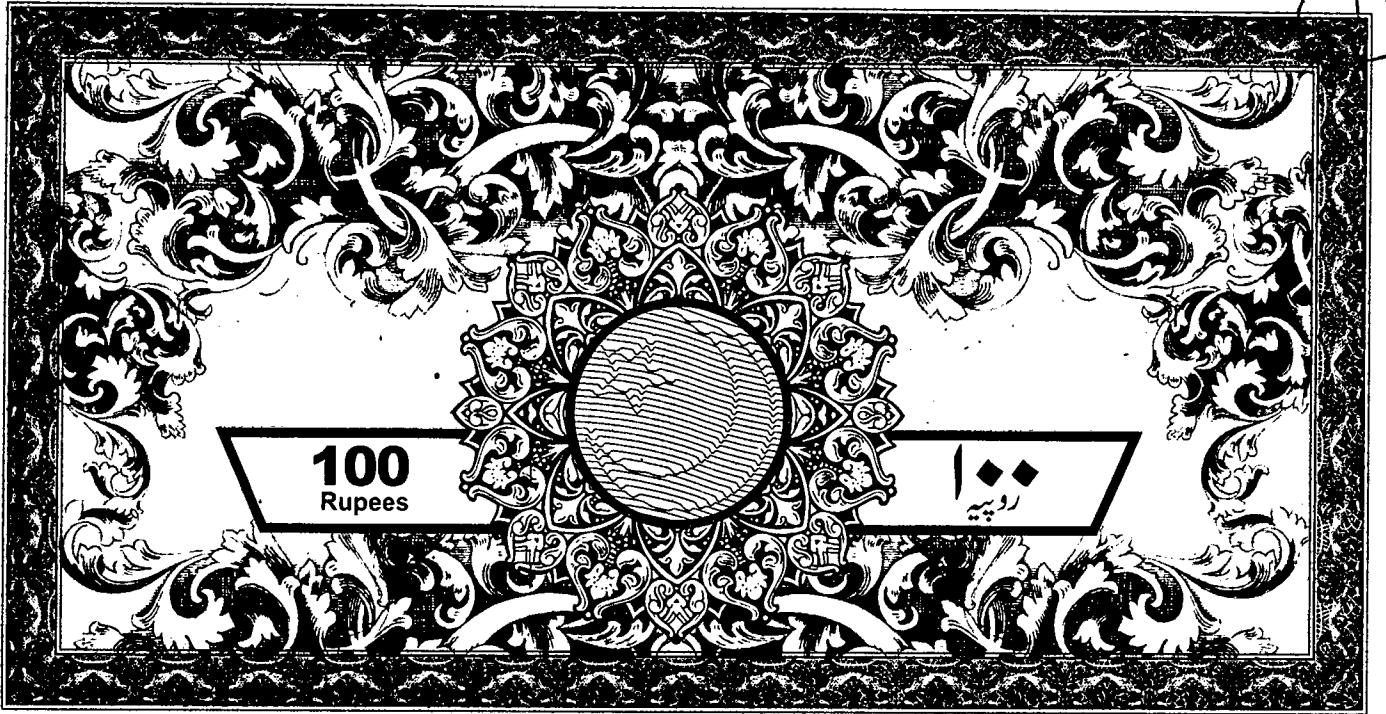
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- 1) Sher Afzal Khan 13101-0935878-7
- 2) Muhammad Nawaz Khan 13101-6964703-7
- 3) Fareed Shah 13101-9908765-5

- 4) Maroof Khan 13101-0906413-1
- 5) Muhammad Sarwar Khan 13101-0820656-1
- 6) S. Arif. H. Shah 13101-0945137-7

- 8) Gohar Rehman 13101-6150646-3
- 8) Ghulam Hassan 13101-0830977-5
- 9) Faizuf Rehman Khan 13101-0990956-9

- 10) Abdul Khaliq 13101-1827135-3

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