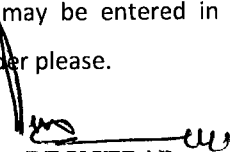




Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 297/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.05.2022	<p>The joint execution petition of Mst. Shenaz Bibi & 29 others submitted today by Mr. Muhammad Liaqat Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	25-5-22	<p>This execution petition be put up before touring Single Bench at A.Abad on <u>16.6.22</u>. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p> CHAIRMAN</p>
	16.06.2022	<p>None for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General present.</p> <p>Despite direction notice^s were not issued. Therefore fresh notices be issued to parties. To come up for implementation report on 17.08.2022 before S.B at camp court A/Abad.</p> <p> (Fareeha Paul) Member (E) Camp Court A/Abad.</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 2972022

IN

Service Appeal No. 12889/2020

Mst. Shahnaz Bibi, PST, GGPS Banda Khair Ali Khan, Tehsil & District Abbottabad & Others.

.....Petitioners

VERSUS

Government Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa Peshawar & others.


..... Respondents

INDEX

Sr.No.	Description	Page Nos	Annexures
1	Execution Petition along with Affidavit	01 to 07	
2	Attested copy of Judgment dated 12-07-2021	08 to 17	"A"
3	Copy of the application dated 12-03-2022 addressed to respondent No. 6	18	"B"
6	Copy of letter dated 17-06-2021	19	"C"
7	Wakalat Nama		


(PETITIONERS)

Through


Muhammad Liaqat
Advocate High Court Abbottabad

0332 8900935

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 297 of 2022

IN

Service Appeal No. 12889 / 2020

1. Mst. Shahnaz Bibi, PST, GGPS Banda Khair Ali Khan, Tehsil & District Abbottabad.
2. Mst. Azra Jabeen, PSHT, GGPS Banda Khair Ali Khan, Tehsil & District Abbottabad.
3. Mst. Noureen Akhtar, PST, GGPS Kumar Bandi, Tehsil & District Abbottabad.
4. Mst. Anjum Shaheen, SPST, GGPS Kumar Bandi, Tehsil & District Abbottabad.
5. Mst. Shaista Bibi, PST, GGPS Kumar Bandi, Tehsil & District Abbottabad.
6. Mst. Bibi Amina Khatoon, PSHT, GGPS Kumar Bandi, Tehsil & District Abbottabad.
7. Mst. Nighat Jamil, SPST, GGPS Bandi Phullan, Tehsil & District Abbottabad.
8. Mst. Shakeela Nawaz, PST, GGPS Bandi Phullan, Tehsil & District Abbottabad.
9. Mst. Bibi Sanam Niaz, PST, GGPS Bandi Phullan, Tehsil & District Abbottabad.
10. Mst. Rubina Qayyum, PSHT, GGPS Bandi Phullan, Tehsil & District Abbottabad.
11. Mst. Sobia Rehman, SPST, GGPS Salhad, Tehsil & District Abbottabad.
12. Mst. Rakhshanda Jamil, PST, GGPS Salhad, Tehsil & District Abbottabad.
13. Mst. Rozina Bibi, PSHT, GGPS Salhad, Tehsil & District Abbottabad.
14. Mst. Hajira Bibi, PST, GGPS Nangal, Tehsil Lora & District Abbottabad.
15. Mst. Aroosa Andleeb, PST, GGPS Noorpur, Tehsil Lora & District Abbottabad.
16. Mst. Nazish Ijaz, CT, GHSS Sheikh ul Bandi, Tehsil & District Abbottabad.
17. Mst. Azra Bano, PST GGPS Rawalakote, Tehsil & District Abbottabad.
18. Mst. Rizwana Shaheen, PST GGPS Rawalakote, Tehsil & District Abbottabad.
19. Mst. Arifa Hameed, Ex-PSHT, GGPS City Abbottabad, Tehsil & District Abbottabad.
20. Mst. Abida Shaheen, Ex-PSHT GGPS Thanda Choa, Tehsil & District Abbottabad.
21. Mst. Khalida Shaheen, EX-SPST, GGPS City Abbottabad, Tehsil & District Abbottabad.
22. Mst. Rukhsana Bibi, Ex-PST GGPS Bagra, Tehsil & District Haripur.
23. Mst. Asia Khatoon, Ex-PSHT GGPS City Abbottabad, Tehsil & District Abbottabad.
24. Mst. Shabana Bibi, PST, GGPS Chabgran, Tehsil & District Abbottabad.
25. Mst. Farhana Bibi, SST, GHSS Sheikh ul Bandi, Tehsil & District Abbottabad.
26. Mst Nazia Bibi, PSHT, GGPS Keri Kotli, Tehsil Lora, District Abbottabad.

27. Mst Fozia Islam, PST, GGPS Keri Kotli, Tehsil Lora, District Abbottabad.
28. Mst Rukhsana Bibi, SPST, GGPS Dakhan Tatreela, Tehsil & District Abbottabad.
29. Mst. Surayya Bibi, PSHT, GGPS Toheedabad, Tehsil & District Abbottabad.
30. Mst. Gulshan Ara, PSHT, GGPS Dakhan Nagri Bala, Tehsil & District Abbottabad.

.....(Petitioners)

VERSUS

1. Government 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 (E&SE) Khyber Pakhtunkhwa, Peshawar.
6. The District Education Officer (Female), Abbottabad.
7. The District Accounts Officer, Abbottabad.

..... (Respondents)

EXECUTION PETITION

**EXECUTION PETITION SEEKING FOR IMPLEMENTATION OF
JUDGMENT IN REM DATED 12/07/2021 PASSED IN SERVICE APPEAL
NO. 12889/2020 BY THIS HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

Respectfully Sheweth,

1. That the appellant Mr. Jalal ud Din filed Service Appeal No. 12889/2020 before this Honorable Tribunal with the prayer that

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.

2. That this Honorable Tribunal allowed the Service Appeal No. 12889/2020 dated 12-07-2021 and the operative part of the judgment is reproduced as under:

“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/ winters vacations. The conveyance allowance if any 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 Judgment dated 12-07-2021 is annexed herewith as **Annexure “A”**).

3. That in pursuance of the **judgment in rem** dated 12-07-2021 being similar placed employees of the Education Department an application alongwith the judgment dated 12-07-2021 was

submitted before Respondent No. 6 regarding implementation of the judgment in rem but respondent No. 6 categorically refused to implement the judgment. (Copy of the application dated 12-03-2022 Annexure "B").

4. That the respondents are legally bound to implement the judgment in rem of this Honourable Tribunal in its true letter & spirit but respondents are reluctant to implement the same.
5. That when the Tribunal decides a point of law relating to the Terms of services of a civil servant which covers not only the case of the civil servants might not taken any legal proceeding, the dictates of justice and rules of good governance demand that the benefits of the decision be extended to other civil servants, who might not be parties to the litigation instead of compelling them to approach the Tribunal or any other legal forum (2005-SCMR-499) and the same is mentioned in the judgment of this Honorable Tribunal at page-9.
6. That as the judgment of this Honorable Tribunal dated 12-07-2021 has been considered as judgment in rem, therefore, petitioners

being similarly placed employees of the education department are entitled for benefit of this judgment and respondents are bound to implement the judgment in order to avoid discrimination under Article 4 & 25 of Constitution of Islamic Republic of Pakistan as well as unnecessary litigation.

7. That one Mr. Maqсад Hayat filed Execution Petition No. 145/20 in Service Appeal No. 1452/19 regarding admissibility of conveyance allowance and respondent No. 3 issued letter No. SO(SR-II) FD/8-7/2017/40 dated 17-06-2021 to respondent No. 4 wherein, it is mentioned that Competent Authority has been pleased to provisionally implement the decision of the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 1452/19 as the case is regarding payment of conveyance allowance to Civil Servants (Vacation Departments) during summer & winter vacations. The decision will be provisionally implemented and shall be recoverable subject to final decision / outcome of Supreme Court of Pakistan in CPLA. Hence, petitioners are also entitled for the same benefit. (Copy of letter No. SO(SR-II) FD/8-7/2017/40 dated 17-06-2021 is annexed herewith as **Annexure "E"**)
8. That the present petitioners submitted separate Execution Petitions in Service Appeal No. 12889/20 on 22-02-2022 but the same were returned by the Registrar of this Honorable Tribunal with the remarks that as the judgment dated 12-07-2021 is

judgment in rem and there is no need to file separate Execution Petitions as this Honorable Tribunal already entertained the joint Execution Petition No. 94 of 2010 hence, the instant Execution Petition is being filed jointly on the same precedent.

9. That the identical Execution Petitions Nos. 129/2022 and 130/2022 are subjudice before this Honorable Tribunal and next date of hearing is fixed on 14-06-2022.

It is therefore, very humbly prayed that on acceptance of instant execution petition judgment in rem dated 12-07-2021 passed by this Honourable Tribunal may graciously be implemented in its true letter & spirit and any other relief which this Honorable Tribunal deems fit may also be granted accordingly.



(PETITIONERS)

Through



Muhammad Liaqat
Advocate High Court Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. ____/2022

IN

Service Appeal No. 12889/2020

Mst. Shahnaz Bibi, PST, GGPS Banda Khair Ali Khan, Tehsil & District Abbottabad & Others.

.....Petitioners

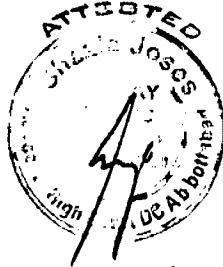
VERSUS

Government Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa Peshawar & others.

..... Respondents

EXECUTION PETITION**AFFIDAVIT**

I, Mst. Shahnaz Bibi, PST, GGPS Banda Khair Ali Khan, Tehsil & District Abbottabad do hereby affirm and declare on oath that the contents of forgoing Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.



21/5/22

Shahnaz Bibi
DEPONENT

A

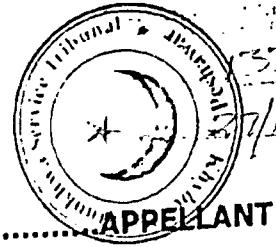
(A) (20)

8

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

APPEAL NO. 12589 /2020

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



.....

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.

ATTESTED

EXAMINER-2
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- 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

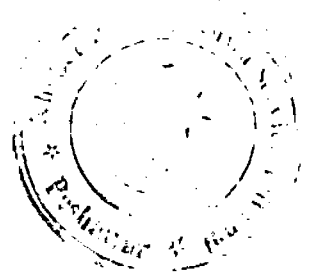
(9)

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.

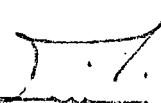
MR. SALAH-UD-DIN

MEMBER (JUDICIAL)

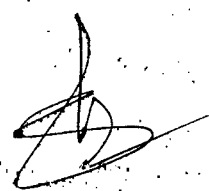
MR. ATIQU-UR-REHMAN WAZIR

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



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

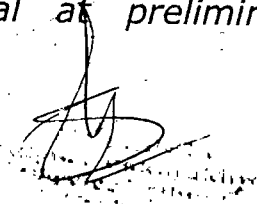
3. In order to have a clear picture of the matter in issue, the admitting note dated 18.06.2021 of the instant appeal is reproduced as below:-

"Counsel for the appellant present.

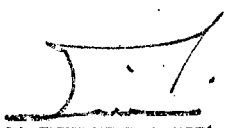
Due to influx of abnormally large number of service appeals by individual appellants against the same set of respondents, and including one and the same subject matter with common questions of fact and law; the Registrar of this Tribunal, vide order dated 27.05.2021 on a miscellaneous application, was 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.

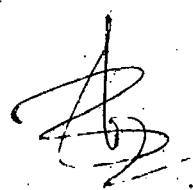
Learned counsel for the appellant seeks early hearing of Appeals No. 13797/2020 and 38 others. It has been brought into the notice of this Bench that this appeal pertains to grievance of the appellant relating to grant of Conveyance Allowance and thousands of similar appeals are pending before this Tribunal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



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.

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



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.

RECORDED
11/11/2019
Khyber Pakhtunkhwa
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"

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

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

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/winter 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

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,

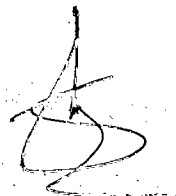

Federal Service Tribunal
Islamabad

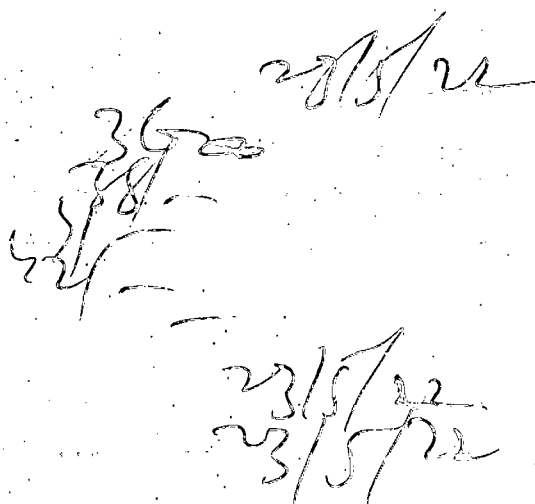
already deducted should be reimbursed to the appellants forthwith. The instant judgment shall be considered as judgment *in rem*, therefore, the respondents should pay the said allowance to all similarly placed employees of the Education Department so as to avoid the discrimination under Article-4 & 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.

ANNOUNCED
12.07.2021


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


(SALAH-UD-DIN)
MEMBER (JUDICIAL)




23/5/22
23/5/22

To

18

ANNEXURE

'B'

The District Education Officer (Female)
Abbottabad

Subject: **IMPLIMENTATION OF THE JUDGMENTS OF HONOURABLE SUPREME COURT OF PAKISTAN AND KHYBER PAKHTUNKHWA SERVICE TRIBUNAL REGARDING DEDUCTION OF CONVEYANCE ALLOWANCE FROM THE SALARIES DURING SUMMER/WINTER VACATIONS.**

Memo:

It is submitted as under:

1. That one Mr. Muhammad Sikandar Dar filed appeal No. 1888(R)/CS/2016 before the Honourable Federal Service Tribunal Islamabad regarding the deduction of conveyance allowance from the salaries during the summer/winter vacations and on 03-12-2018 Honourable Federal Service Tribunal Islamabad accepted the appeal and directed the respondents not to deduct the conveyance allowance during summer and winter vacations. This judgment is considered in Rem not Personam. (Copy of the judgment of Federal Service Tribunal is annexed as **Annexure "A"**).
2. That the Civil Petition No. 450 of 2019 was filed before August Supreme Court of Pakistan against judgment dated 03-12-2016 passed by the Honourable Federal Service Tribunal in Appeal No. 1888(R)/CS/2016 and the same was dismissed on 28-08-2019. (Copy of the judgment of August Supreme Court of Pakistan dated 28-08-2019 is appended herewith as **Annexure "B"**).
3. That Mr. Jalalud Din SCT, District Dir Lower filed Service Appeal No. 12889/2020 before the Khyber Pakhtunkhwa Service Tribunal regarding the illegal deduction of conveyance allowance from the salaries during summer/winter vacations.
4. That on 12-07-2021, Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar allowed the appeal. For convenience and ready reference the operative part of the judgment is reproduced as under:-
"Respondents directed not to deduct the conveyance allowance from the salaries during summer/winter vacations. The conveyance if 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 similar placed employees of the education department so as to avoid the discrimination under Article 4 and 25 of the Constitution of Islamic Republic of Pakistan as well as unnecessary litigation." (Annexure "C")
5. That as per judgment of the Honourable Supreme Court of Pakistan reported as **2009 SCMR 1** the operative part of the judgment is reproduced as under:
"If a Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to the other civil servants also, who may not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum."
6. As per letter of Government of Khyber Pakhtunkhwa Finance Department No. SO (SR-II)FD/8-7/2017/40 dated 17-06-2021 competent authority has been pleased to provisionally implement the decision of the Khyber Pakhtunkhwa Service Tribunal. The decision will be provisionally implemented and shall be recoverable subject to final decision/outcome of the Supreme Court of Pakistan in CPLA file by the Provincial Government against the decision of Khyber Pakhtunkhwa Service Tribunal Peshawar. (**Annexure "D"**).

It is therefore, in view of the above facts and circumstances it is requested that all the DDOs under your kind jurisdiction may please be directed to prepare and signed the source of arrears of conveyance allowance in accordance with the above referred judgments as well as letter of Finance Department (Regulation Wing).

Yours Faithfully

Zulfiqar Ahmed
President All Teacher Association
District Abbottabad

17/3/22

P-2

Adi
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GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO.SO(SR-II)FD/8-7/2017/40
Dated-Peshawar the 17.06.2021

To
The Accountant General,
Govt. of Khyber Pakhtunkhwa,
Peshawar.

Subject:- IMPLEMENTATION OF THE JUDGEMENT OF EXECUTION PETITION 145/2020 IN SERVICE APPEAL REGARDING ADMISSIBILITY OF CONVEYANCE ALLOWANCE DURING SUMMER & WINTER VACATIONS TO THE EMPLOYEES OF VACATION DEPARTMENT.

Dear Sir,

I am directed to refer to your department's letter No.Lit/S.T/S.A/1452-2019. Maqsd Hayat/2018-19/259-61 dated 22.02.2021 on the subject noted above and to state that the Competent Authority has been pleased to provisionally implement the decision of the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No.1452/2019 filed by Mr.Maqsad Hayat, SCT versus Government of Khyber Pakhtunkhwa through Chief Secretary. The case is regarding payment of Conveyance Allowance to Civil Servants (Vacation Departments) during summer & winter vacations. The decision will be provisionally implemented and shall be recoverable subject to final decision/outcome of the Supreme Court of Pakistan in CPLA file by the Provincial Government against the decision date 11.11.2019 of Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Yours faithfully,

A-D-O
for officer
[Handwritten signature]
21/12

[Handwritten signature]
(Muhammad Ilyas Khattak)
SECTION OFFICER (SR, IN)

Attested
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وکالت نامہ

کورٹ فیس

بعدالت ضاب علیہ منہ سر دس لکھ پینل KPK لکھنؤ

عنوان: سجاد سہیل زیدی و علیہ بنام گورنمنٹ آف پاکستان

منجانب:
 نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ اس مقام

چھ سات اید گوسٹ

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور

کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داخستہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بسینہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 14 مئی 2022

Accepted

بمقام:

علیہ منہ سر دس لکھ پینل
Najib Jinnal

علیہ منہ سر دس لکھ پینل
Sikhi Bani

علیہ منہ سر دس لکھ پینل
Bani

1. بعدالت
2. عنوان
3. منجانب
4. نوعیت مقدمہ
5. باعنت تحریر آنکہ

6. مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ اس مقام
7. کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور
8. کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داخستہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بسینہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔
9. لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔
10. المرقوم: 14 مئی 2022
11. Accepted
12. بمقام:
13. علیہ منہ سر دس لکھ پینل
14. علیہ منہ سر دس لکھ پینل
15. علیہ منہ سر دس لکھ پینل

1. Lum - لوم

2. H Bin - ه ب ن

3. Amore - آمور

4. N - ن

5. A Ban - ا بان

6. Shere - شير

7. Maj - ماج

8. Shac - شاك

9. She - شيه

10. Rum - روم

11. Am - ام

12. Shan - شان

13. Bakmar - باكمار

14. Nasir - ناسير

15. Fozia - فوزيا

16. Porta - پورتا

17. Son - سون

18. Ar - ار