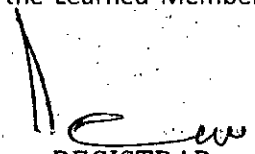
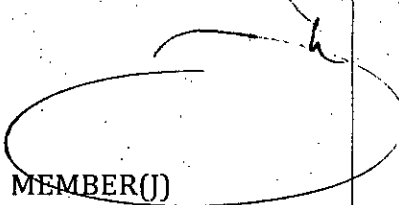
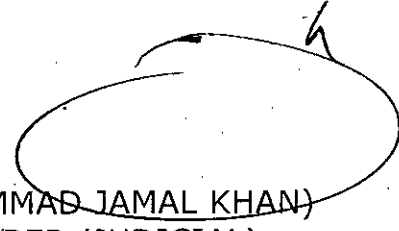


FORM OF ORDER SHEET

Court of _____

Case No. 15827 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/12/2020	<p>The appeal presented today by Mr. Arshad Khan Advocate may be entered in the Institution Register and put to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	02.03.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>04/03/21</u></p> <p style="text-align: right;"> MEMBER(J)</p> <p>Due to general strike on the call of Khyber Pakhtunkhwa Bar Counsel, learned counsel for appellants is not available today, therefore, the appeal is adjourned to 27.07.2021 on which date file to come up for preliminary arguments before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Appeal No. _____/2020

Mr Mohammad Sulaiman, Lecturer (BS-17) Govt, Post Graduate
College Charsadda.

(Appellant)

VERSUS

Govt. of KPK through Secretary Higher Education, Archives
and Libraries Department Peshawar & Others.


(Respondents)

INDEX

S. No	Description of Documents	Annexure	Page No
1	Memo of Appeal		1-3
2	Copy of Pay slip of Vacation and working month	A & B	4-5
3	Copy of Departmental Appeal	C	6
4	Copy of Judgments dated 11.11.2019	D	7-8
5	Vakalatnama	E	9


Appellant

Through


Arshad Khan Safi
Advocate Peshawar

Note:

Other spare copies will be provided after regular submission.

BEFORE THE SERVICE TRIBUNAL KPK PESHAWARAppeal No. 15827 /2020Khyber Pakhtunkhwa
Service TribunalDiary No. 16398Dated 10/12/2020

Mr Mohammad Sulaiman, Lecturer (BS-17) Govt, Post Graduate
College Charsadda.

(Appellant)

VERSUS

1. Govt. of KPK through Secretary Higher Education, Archives and Libraries Department Peshawar.
2. Director Higher Education, Govt. of Khyber Pakhtunkhwa Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa Peshawar.

(Respondents)

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF RESPONDENTS OF ILLEGALLY DEDUCTING CONVEYANCE ALLOWANCE FROM THE APPELLANT DURING SUMMAR AND WINTER VACATIONS AND PAYMENT OF DEDUCTED AMOUNT MADE TO THE APPELLANT MADE FROM HIM IN THIS RESPECT, FOR WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day

Registrar
10/12/20

Prayer in Appeal: -

On acceptance of this appeal the respondents may kindly be directed not to deduct from the appellant the Conveyance allowance during the summer and winter vacations and pay the appellant the illegally deducted amount in this respect.

Respectfully Submitted:

1. *That the appellant is serving as lecturer (BPS-17) Govt, Post Graduate College Charsadda in the respondent department and since then he performed his duties with honesty and full devotion with spotless service career.*

2. *That the department in which the appellant is serving in vacation department and the conveyance allowance is deducted from the appellant during summer and winter vacations in violation of Rule 82 (b) of the Fundamental Rule 1922, according to which vacation counts as duty. (Copy of Pay Slip is enclosed as Annexure A)*

3. *That the appellant approached respondents for directing respondents to pay him the conveyance allowance during summer and winter vacations with further directions to the respondents to pay the appellant the already illegally deducted amount in this regard, vide departmental appeal which has not been responded so far despite the lapse of the statutory period of ninety days. (Copy of departmental appeal is enclosed as Annexure B)*

4. *That this action of the respondents of not paying the appellant the conveyance allowance during the summer and winter vacations and not paying the appellant the illegally deducted amount in this respect, is against the law, facts and principles of justice on grounds inter alia as follows:-*

Grounds of Appeal:

- A. *That the omissions and commissions of the respondents are illegal and void ab-initio.*

B. That Rule 82 (b) of the Fundamental Rules 1922, is very much clear on the point, according to which vacation counts as duty, hence deduction of conveyance allowance during the Summer and Winter vacations is illegal and against the Rule 82 (b) of the Fundamental Rules 1922.

C. That even this issue was agitated before the Sindh Service Tribunal, Federal Service Tribunal and even before this honorable Tribunal which appeals were accepted and even that judgments have been implemented. (Copy of Judgment is enclosed as Annexure C)

D. That the illegal deduction of the conveyance allowances during vacations cause monetary loss to the appellant and he is subjected to monetary loss illegally.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

M. Sale
Appellant

Through

Arshad Khan Safi
Arshad Khan Safi
Advocate Peshawar

AFFIDAVIT:-

I, Mr Mohammad Sulaiman, Lecturer (BS-17) Govt, Post Graduate College Charsadda, do hereby solemnly affirm and declare that the contents of the above appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal and no such like appeal has been earlier filed before this Hon'ble Tribunal.

M. Naeem Khan
ATTESTED
MUHAMMAD NAEEM KHAN
ADVOCATE
OATH COMMISSIONER

M. Sale
Deponent

Government of Khyber Pakhtunkhwa
District Accounts Office Charsadda
Monthly Salary Statement (July-2019)

A - (4)



Personal Information of Mr MOHAMMAD SULAIMAN d/w/s of ABDULLAH

Personnel Number: 00646533 CNIC: 1710221108757 NTN:
Date of Birth: 10.09.1988 Entry into Govt. Service: 06.05.2011 Length of Service: 08 Years 02 Months 027 Days

Employment Category: Vocational Temporary

Designation: LECTURER 80000988-GOVERNMENT OF KHYBER PAKH
DDO Code: CA4035-PRINCIPAL GOVERNMENT POST GRADUATE COLLEGE CHARSADDA
Payroll Section: 001 GPF Section: 001 Cash Center:
GPF A/C No: V.25CP.P.65 Interest Applied: Yes **GPF Balance:** 125,549.00

Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 17 Pay Stage: 4

Wage type		Amount	Wage type		Amount
0001	Basic Pay	39,570.00	1000	House Rent Allowance	4,433.00
1947	Medical Allow 15% (16-22)	1,846.00	2148	15% Adhoc Relief All-2013	800.00
2199	Adhoc Relief Allow @10%	556.00	2211	Adhoc Relief All 2016 10%	2,930.00
2224	Adhoc Relief All 2017 10%	3,957.00	2247	Adhoc Relief All 2018 10%	3,957.00
2265	Adhoc Relief All 2019 05%	1,978.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-301.00	3990	Emp.Edu. Fund KPK	-250.00
4004	R. Benefits & Death Comp:	-900.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	172,800.00	-4,800.00	148,000.00

Deductions - Income Tax

Payable: 6,016.56 Recovered till JUL-2019: 301.00 Exempted: 2406.43 Recoverable: 3,309.13

Gross Pay (Rs.): 60,027.00 Deductions: (Rs.): -11,321.00 Net Pay: (Rs.): 48,706.00

Payee Name: MOHAMMAD SULAIMAN
Account Number: 5784-9
Bank Details: ALLIED BANK LIMITED, 250058 TEHSIL BAZAR TEHSIL BAZAR,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: N Domicile: - Housing Status: No Official
Temp. Address:
City: Email: salmanumerzai59@gmail.com

System generated document in accordance with APPM 4.6.12.9 (SERVICES/16.08.2019/16:49:08/v1.1)
* All amounts are in Pak Rupees
* Errors & omissions excepted

Attested

Government of Khyber Pakhtunkhwa
District Accounts Office Charsadda
Monthly Salary Statement (September-2019)

B - 5



Personal Information of Mr MOHAMMAD SULAIMAN d/w/s of ABDULLAH

Personnel Number: 00646533 CNIC: 1710221108757 NTN:
Date of Birth: 10.09.1988 Entry into Govt. Service: 06.05.2011 Length of Service: 08 Years 04 Months 026 Days

Employment Category: Vocational Temporary

Designation: LECTURER 80000988-GOVERNMENT OF KHYBER PAKH

DDO Code: CA4035-PRINCIPAL GOVERNMENT POST GRADUATE COLLEGE CHARSADDA

Payroll Section: 001 GPF Section: 001 Cash Center:

GPF A/C No: V.25CP.P.65 Interest Applied: Yes **GPF Balance:** 171,384.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 17 Pay Stage: 4

Wage type		Amount	Wage type		Amount
0001	Basic Pay	39,570.00	1000	House Rent Allowance	4,433.00
1210	Convey Allowance 2005	5,000.00	1947	Medical Allow 15% (16-22)	1,846.00
2148	15% Adhoc Relief All-2013	800.00	2199	Adhoc Relief Allow @10%	556.00
2211	Adhoc Relief All 2016 10%	2,930.00	2224	Adhoc Relief All 2017 10%	3,957.00
2247	Adhoc Relief All 2018 10%	3,957.00	2265	Adhoc Relief All 2019 05%	1,978.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-451.00	3990	Emp.Edu. Fund KPK	-250.00
4004	R. Benefits & Death Comp:	-900.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	172,800.00	-4,800.00	139,200.00

Deductions - Income Tax

Payable: 8,516.49 Recovered till SEP-2019: 1,053.00 Exempted: 3406.29 Recoverable: 4,057.20

Gross Pay (Rs.): 65,027.00 Deductions: (Rs.): -11,471.00 Net Pay: (Rs.): 53,556.00

Payee Name: MOHAMMAD SULAIMAN

Account Number: 5784-9

Bank Details: ALLIED BANK LIMITED, 250058 TEHSIL BAZAR TEHSIL BAZAR,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: N Domicile: - Housing Status: No Official

Temp. Address:

City: Email: salmanumerzai59@gmail.com

System generated document in accordance with APPM 4.6.12.9 (SERVICES/29.09.2019/12:40:34/v1.1)

* All amounts are in Pak Rupees

* Errors & omissions excepted

Attested

**BEFORE THE SECRETARY HIGHER EDUCATION,
ARCHIVES AND LIBRARIES DEPARTMENT, KPK
PESHAWAR**

Subject:- Departmental Appeal for the payment of Conveyance Allowance during Summer and Winter Vacations and declaring the deduction of the same as illegal and unlawful.

Respectfully Submitted:-

1. That the appellant is serving as Lecturer (BPs- 17) and the department in which she is serving is vacation department in wherein the conveyance allowance cannot be deducted as per law and rules. Even the deduction of conveyance has been declared illegal by the Service Tribunal in many appeals. The deduction of conveyance allowance as such during summer and winter vacations is illegal and the appellant is entitled to be paid the deducted amount in this respect.

It is therefore prayed that on acceptance of this appeal, Conveyance Allowance during summer and winter vacations may not be deducted from the appellant and pay back the appellant the deducted amount in this respect.

Dated: 27-8-2020

Mr Mohammad Sulaiman,
Lecturer (BS-17) Govt, Post
Graduate College Charsadda

Attested

APPEAL NO. 1452 / 2019

Stamp: Khyber Pakhtunkhwa Service Tribunal, Peshawar, dated 21/10/19

Mr. Maqсад Hayat, SCT (BPS-16),
GHS Masho' Gagār, Peshawar.....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 (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 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.

Filed to-day
Registrar
24/10/19

R/SHEWETH:

ATTENTION FACTS:

Stamp: Khyber Pakhtunkhwa Service Tribunal, Peshawar, dated 24/10/19

- 1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency and up to the entire satisfaction of the 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 employee

Attested

11.11.2019

Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.

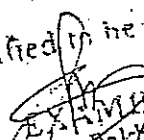
Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal.

The record suggests that while handing down judgment in the Writ Petition preferred by the appellant, the Honourable High Court not only expounded the definition of "Pay" as well as "Salary" but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.

In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ Petitions including W.P No. 3162-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a reasonable time.

File be consigned to the record.


Chairman

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



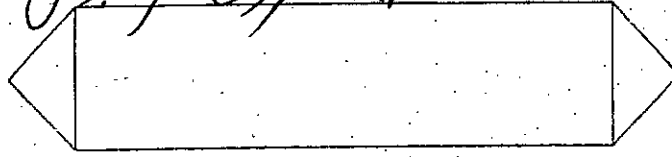
ANNOUNCED

11.11.2019


Attested

(9) - E

بعدالت KP سپرویز ٹریبونل سینا اور



2 منجانب
بنام

M. Suliaman

US

Education Dept

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

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

آن مقام سینا اور کیلئے ارشد خان

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 و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی 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 مختار 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 مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے

سبب 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

المرقوم

And
Attested &
Accepted

العبد العبد العبد

کے لئے منظور ہے۔

سینا اور

مقام