

04.02.2021

Appellant present through counsel.

Through the instant appeal U/S 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974, the appellant has prayed for issuance of a direction to the respondents not to deduct the conveyance allowance from the salary of appellant during summer and winter vacation.

At the very outset learned counsel for appellant referred to copy of order dated 11.11.2019 passed in Service Appeal No. 1452/2019 and requested for disposal of instant appeal in terms of the said order.

It shall be useful for the purpose to reproduce hereunder the contents of referred order dated 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.

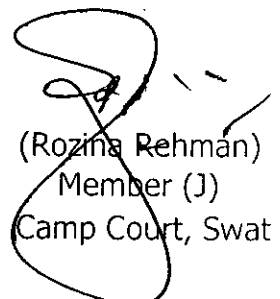
Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar 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."

Thus, in the circumstances, this Tribunal has reached a conclusion that under the principle of consistency, it would, therefore, be appropriate to dispose of the appeal in hand in accordance with order dated 11.11.2019 passed in Service Appeal No. 1452. Appeal stands disposed of similarly. File be consigned to the record room.

ANNOUNCED
04.02.2021


(Rozina Rehman)
Member (J)
Camp Court, Swat

08.10.2020

Mr. Ahmed Hussain Advocate for appellant is present. Learned counsel has not prepared the brief and is seeking adjournment. He is directed to prepare the brief and make up the deficiencies in the documents, if any. File to come up for Preliminary hearing on 10.12.2020 before S.B at Camp Court, Swat.


(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT SWAT

10.12.2020

Due to COVID-19, the case is adjourned for the same on 04.02.2021 before S.B.

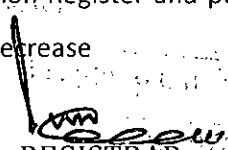


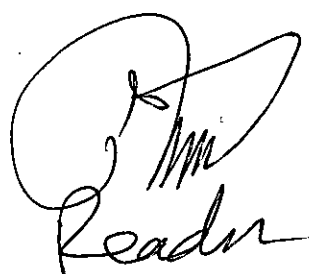
READER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 927 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/02/2020	<p>The appeal of Mian Noor Badshah presented today by Mr. Haider Ali Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>04-06-20</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>04.06.2020 Due to COVID-19, the case is adjourned. To come up for the same on 07.08.2020, at camp court Swat.</p> <p style="text-align: right;"> Reader</p> <p>Due to summer vacation the case is adjourned. To come up for the same on <u>08/10/2022</u></p> <p style="text-align: right;"> Reader</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA AT
PESHAWAR

Mian Noor Badshah

927/2020

Appellant /Plaintiff

VERSUS

GOVT. KPK & OTHERS

.....(Respondent)

INDEX

S.#	Description of Documents	Annexures	Pages
1.	Memo of appeal	-	1-5
2.	Affidavit	-	6
3.	Copy of notification 20/12/2012 along with better copy	A	7-8
4.	Copy of salary slips	B-C	9-10
5.	Copy of departmental appeal & judgment dated 5/08/2019	D-E	11-16
6.	Copy of judgment dated 11/11/2019	F	17-18
7.	Wakalt nama		19

Appellant

Through

AHMAD HUSSAIN ADVOCATE

Cell No. 0333-9463679

Off: Shaheed Ali law chamber

continental Plaza Makanbagh Mingora Swat.

note ~~Spere~~ Copies will be
submitted after admission
of appeal

Haider Ali Advocate
[Signature]

(10)

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 927 of 2020

Diary No. 1100

Dated 11/2/2020

Mian Noor Badshah (SAT-16) at GHS No. 4, Mingora, Swat.

.....Appellant

VERSUS

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

.....Respondents

Appeal under section 4 of service Tribunal Act, 1974 against the impugned action of the respondents by illegally and unlawfully deducting the conveyance allowance of the appellant, during winter and summer vacation and against no action taken on the departmental appeal of the appellant within the statutory period of 90 days.

Filed to-day

Registrar

Prayer:

On acceptance of this appeal, the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter) and make the payment of all outstanding amount of conveyance allowance, which have been deducted previously with all back benefits.

Any other relief not specifically prayed but this august court deems proper may also be granted.

Respectfully Sheweth:

1. That appellant is serving in the Elementary & Secondary Education Department ~~as (SAT-16)~~ quite efficiently and upto 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. Later on vide revised Notification dated 20-12-2012, the conveyance allowance for employees working in BPS 1 to 15 were enhanced / revised while employees from BPS-16 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance (Copy of notification dated 20-12-2012 are annexure A).
3. That appellant was receiving the conveyance allowances, as admissible under the law and rules, but the respondents without any valid and justifiable reasons stopped / deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period (Copies of salary slips of working / serving month and vacations (deducted period) are annexure B & C).
4. That appellant feeling aggrieved from the action of the respondents regarding deduction of conveyance allowance in vacations period / months filed Departmental appeal, but no reply has received so far. Feeling aggrieved, the appellant along with his other colleagues filed Writ Petition No. 3812-P / 2019, before the Peshawar High Court, Peshawar, which was disposed of vide judgment dated 05-08-2019, with the directions to approach proper forum i.e. Service Tribunal (Copies of departmental appeal and judgment dated 05-08-2019 are annexure D & E).

5. That some of colleagues of the appellant approached to this Hon'ble Tribunal in different service appeal, which was allowed by this Hon'ble Tribunal vide its judgment dated 11-11-2019 (Copy of judgment dated 11-11-2019 is annexure F).
6. That where after the appellant waited for the statutory period of 90 days, but no reply has been received from the respondents. The appellant feeling aggrieved and having no other remedy, filing the instant service appeal on the following grounds amongst others.

Grounds:

- i. That the action and inaction of the respondents regarding deduction of conveyance allowance for vacations period / months is illegal, against the law, facts and norms of natural justice.
- ii. That the appellant has not been treated by the respondents department in accordance with law and rules on the subject noted above and as such the respondents violated Articles 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- iii. That the action of the respondents is without any legal authority, discriminatory and in clear violation of fundamental rights duly conferred by the Constitution and is liable to be declared as null and void.
- iv. That there is clear difference between leave and vacation as leave is applied by the Civil Servant in light of Government Servant Revised Leave Rules, 1981, while the vacations are always announced by the Government, therefore under the law and rules, the appellant is fully entitled for the grant of conveyance allowance during vacations period.

- v. That the Government Servants Revised Leave Rules, 1981, clearly explain that the civil servants, who avail the vacations are allowed only one leave in a month whereas, the other civil servants may avail 04 days leave in a calendar months and the same are credited to his account and in this way he may avail 48 days earned leave with full pay, whereas, the Government servants to avail vacation such as appellant is allowed one day leave in a month and 12 days in a year and earned leave for twelve days in a year are credited to his account and there is no question of deduction of conveyance allowance lost sight of this legal aspects and illegally and without any authority started the recovery and deduction of conveyance allowance from appellant.
- vi. That as the act of the respondents is illegal, unconstitutional, without any legal authority and not only discriminatory, but is also the result of malafide on the part of respondents.
- vii. That appellant has the vested right of equal treatment before law and the act of the respondents to deprive the appellant from the conveyance allowance is unconstitutional and clear violation of fundamental rights.
- viii. That according to Government Servants Revised Leave Rules, 1981, vacations are holidays and not leave of any kind, therefore, the deduction of conveyance allowance in vacations is against the law and rules.
- ix. That according to Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973, the state is bound to reduce disparity in the income and earning of individuals including persons in the services of the federation, therefore, in light of the said Article, the

Appellant is fully entitled for the grant of conveyance allowance during vacations.

X. That appellant seeks permission of this Honorable Court to raise any other grounds available at the time of arguments.


It is, therefore, very humbly prayed that, on acceptance of this appeal, the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter) and make the payment of all outstanding amount of conveyance allowance, which have been deducted previously with all back benefits.

Any other relief not specifically prayed but this august Court deems proper may also be granted.



Appellant

Mian Noor Badshah (SAT, BPS- 16)

Through Council
Haidar Ali Advocate




**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

Annex A - (7) (5)

NO. FD/SO(SR-11)/8-52/2012
Dated Peshawar the: 20-12-2012

*Attested to be
True Copy
act [Signature]*

From:
The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department,
Peshawar.

- To:**
1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
 2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
 3. The Secretary to Governor Khyber Pakhtunkhwa.
 4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
 5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
 6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
 7. All District Coordination Officers in Khyber Pakhtunkhwa.
 8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
 9. The Registrar, Peshawar High Court, Peshawar.
 10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
 11. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

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

Dear Sir,

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

S.NO	BPS	EXISTING RATE (PM)	REVISED RATE (PM)
1.	1-4	Rs.1,500/-	Rs.1,700/-
2.	5-10	Rs.1,500/-	Rs.1,840/-
3.	11-15	Rs.2,000/-	Rs.2,720/-
4.	16-19	Rs.5,000/-	Rs.5,000/-

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

Yours Faithfully,

[Signature]
(Sahibzada Saad Ahmad)
Secretary Finance

Encls: NO. FD/SO(SR-11)/8-52/2012

Dated Peshawar the 20th December, 2012

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Secretaries to Government of Punjab, Sindh & Balochistan Finance Department
3. All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa

Attested to be true Copy
[Signature]
Additional Secretary

[Signature]
(IMTIAZ AYUB)
Additional Secretary (Reg)

M B

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO.FD/SO(SR-II)/52/2012
Dated Peshawar the: 20.12.2012

From

The Secretary to Govt: of Khyber Pakhtunkhwa.
Finance Department, Peshawar.

*Attested to be
True Copy*

To:

1. All administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. All Heads of attached Departments in Khyber Pakhtunkhwa.
7. All District Coordination Officers of Khyber Pakhtunkhwa.
8. All Political Agents/District & Session Judge in Khyber Pakhtunkhwa.
9. The Registrar Peshawar High Court, Peshawar.
10. The Chairman Public Service Commission, Khyber Pakhtunkhwa.
11. The Chairman, Service Tribunal, Khyber Pakhtunkhwa.

Sahibzada Saeed Ahmad

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

Dear Sir,

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

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

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

Your Faithfully

Attested to be true Copy
Sahibzada Saeed Ahmad
Advocate High Court

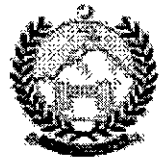
(Sahibzada Saeed Ahmad)
Secretary Finance.

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

MA

Dist. Govt. NWFP-Provincial
District Accounts Office SWAT
Monthly Salary Statement (May-2019)

Annex B



(9)

Personal Information of Mr MIAN NOOR BADSHAH d/w/s of SAID BADSHAH

Personnel Number: 00066473 CNIC: 1560203212047 NTN: 0
Date of Birth: 01.12.1962 Entry into Govt. Service: 06.01.1982 Length of Service: 37 Years 04 Months 027 Days

Employment Category: Active Permanent

Designation: SENIOR ARABIC TEACHER 80004842-DISTRICT GOVERNMENT KHYBE

DDO Code: SW6073-Head Master GHS Mingora No.4 Swat

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No: EDUSW006152

Interest Applied: Yes

GPF Balance:

435,878.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 16

Pay Stage: 27

Attested to be True Copy
[Signature]

Wage type		Amount	Wage type		Amount
0001	Basic Pay	59,950.00	1000	House Rent Allowance	2,727.00
1210	Convey Allowance 2005	5,000.00	1912	Compen Allow 20% (16-N1)	1,500.00
1947	Medical Allow 15% (16-22)	2,869.00	2148	15% Adhoc Relief All-2013	1,420.00
2199	Adhoc Relief Allow @10%	944.00	2211	Adhoc Relief All 2016 10%	4,788.00
2224	Adhoc Relief All 2017 10%	5,995.00	2247	Adhoc Relief All 2018 10%	5,995.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription - Rs3340	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-100.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-1,089.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 2,000.00 Recovered till May-2019: 1,100.00 Exempted: 800.00 Recoverable: 100.00

Gross Pay (Rs.): 91,188.00 Deductions: (Rs.): -5,479.00 Net Pay: (Rs.): 85,709.00

Payee Name: MIAN NOOR BADSHAH

Account Number: PLS00000001755

Bank Details: ALLIED BANK LIMITED, 250269 ABL SABZI MANDI MINGORA SWAT ABL SABZI MANDI MINGORA SWAT,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: SWAT

City: SWAT

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

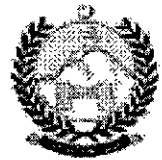
Email:

(66931/24.05.2019/09:15:58) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted

Attested to be true Copy
[Signature]
Ahmad Hussain
Advocate High Court

**Dist. Govt. NWFP-Provincial
District Accounts Office SWAT
Monthly Salary Statement (February-2019)**

Annex C



(10)

Personal Information of Mr MIAN NOOR BADSHAH d/w/s of SAID BADSHAH

Personnel Number: 00066473 CNIC: 1560203212047 NTN: 0
Date of Birth: 01.12.1962 Entry into Govt. Service: 06.01.1982 Length of Service: 37 Years 01 Months 024 Days

Employment Category: Active Permanent

Designation: SENIOR ARABIC TEACHER 80004842-DISTRICT GOVERNMENT KHYBE
DDO Code: SW6073-Head Master GHS Mingora No.4 Swat
Payroll Section: 001 GPF Section: 001 Cash Center:
GPF A/C No: EDUSW006152 Interest Applied: Yes **GPF Balance:** 425,858.00

Attested to be True Copy

Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 16 Pay Stage: 27

Wage type		Amount	Wage type		Amount
0001	Basic Pay	59,950.00	1000	House Rent Allowance	2,727.00
1912	Compen Allow 20% (16-N1)	1,500.00	1947	Medical Allow 15% (16-22)	2,869.00
2148	15% Adhoc Relief All-2013	1,420.00	2199	Adhoc Relief Allow @10%	944.00
2211	Adhoc Relief All 2016 10%	4,788.00	2224	Adhoc Relief All 2017 10%	5,995.00
2247	Adhoc Relief All 2018 10%	5,995.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription - Rs3340	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-100.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-1,089.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 2,000.00 Recovered till February-2019: 800.00 Exempted: 800.00 Recoverable: 400.00

Gross Pay (Rs.): 86,188.00 Deductions: (Rs.): -5,479.00 Net Pay: (Rs.): 80,709.00

Payee Name: MIAN NOOR BADSHAH

Account Number: PLS00000001755

Bank Details: ALLIED BANK LIMITED, 250269 ABL SABZI MANDI MINGORA SWAT ABL SABZI MANDI MINGORA SWAT,

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: SWAT

City: SWAT

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

(66931/06.03.2019/11:29:06) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted

Attested to be true Copy
Press
Ahmad Hussain
Advocate High Court

To,

The Director (E&SE) Department,
Khyber Pakhtunkhwa, Peshawar.

Annex D

Attested to
be True Copy

11

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION OF THE CONCERNED AUTHORITY BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE DURING WINTER & SUMMER VACATIONS).

Respected Sir,

With due respect it is stated that I am the employee of your good self-Department and is serving as (.SAT, BPS-16)... quite efficiently and up to the entire satisfaction of high-ups of this department. Since conveyance allowance is admissible to all the civil servants in to this effect notification No FD (PRC) 1- 1/2011 dated 14.07.2011 was issued. Later on wide revised notification dated 20/12/2012 whereby conveyance allowance for employees working in BPS 1 to 15 was enhanced/revised while employees from BPS-16 to 19 have been treated under to previous Notification by not enhancing their conveyance allowance. Respected Sir, I was receiving the conveyance allowance as admissible under the law and rules but the concerned authority without any valid and justifiable reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext the same is not allowed during winter & summer vacations. One of the employee of Education Department in Islamabad filed service appeal No.1888 CS/2016 before the Federal Service Tribunal, Islamabad regarding conveyance allowance which was accepted by the Honorable Service Tribunal vide its judgment dated 03/12/2018. That I being similar employee of this department & under the principle of consistency, also entitled for the same treatment meted out in the above mentioned service appeal, but the concerned authority is not willing to issue /grant the same conveyance allowance which is granted to other employee. Being aggrieved from the action of the concerned authority regarding deduction of conveyance allowance in vacation periods/months preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may very kindly be directed that the conveyance allowance may not be deducted from my monthly salary during the winter & summer vacations

Dated 17//07/2019



Your's obediently

Man Noor Badshah

(27)

Annex E 1 (12)

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



W.P No _____ of 2019.

1. Muhammad Ali s/o Said Faqir, CT-15 at GHS Amankot, Swat. CNIC 15602-0267433-3, P.No 71814.
2. Mian Noor Badshah s/o Said Badshah, SAT-16 at GHS No 4, Mingora. CNIC 15602-0321204-7, P.No 66473.
3. Latif Ahmad s/o Jalal ud Din SST (G)-16 at GHS, Amankot, Swat. CNIC 15602-0243072-5, P.No 823436.
4. Hanif ur Rahman s/o Muhammad Khan AT -16 at GMS Panr, Swat. 15602-0514576-3, P.No 110311.
5. Malak Ihtisham Ullah Khan s/o Hazrat Khalil PST-12 at GPS Sangar, Manglor, Swat. CNIC 15602-2650719-3, P.No 788778.

Petitioners and representatives of petitioners mentioned in list "A"

-- VERSUS --

1. Government of Khyber Pakhtunkhwa through Secretary Finance Govt. of Khyber Pakhtunkhwa, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. District Account Officer, Saidu Sharif, Swat.
4. District Account Officer, Dir Upper.
5. District Account Officer, Buner.
6. District Account Officer, Malakand.

...Respondents

Writ Petition Under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973.

Respectfully Sheweth;

1. That the petitioners mentioned in the list herewith are serving in the education department and are posted at different schools in District swat, Malakand, Buner and Dir.

Attested to be True Copy
[Signature]

Attested to be true Copy
[Signature]
Attested to be true Copy
Attested to be true Copy

ATTESTED
EXAMINER
Peshawar High Court

JUDGMENT SHEET

PESHAWAR HIGH COURT,
PESHAWAR

JUDICIAL DEPARTMENT

Writ Petition No. 3812-P of 2019



JUDGMENT

Attested to be True Copy
[Signature]

Date of hearing.....05.08.2019.....

Petitioner(s) ...(Muhammad Ali & others) by Mr. Ahmad Hussain, Advocate.

Respondent(s)...(Government of KPK, through Secretary Finance Department, Peshawar and others) ...by Mr. Mujahid Ali Khan AAG.....

IJAZ ANWAR, J.- Vide our detailed judgment recorded in connected writ petition No. 3710-P/2019 titled: *Malik Muhammad Hafeez & others*, the instant writ petition is disposed of in the same terms, leaving the petitioners to approach proper forum for the solicited relief, in accordance with law.

Announced.
Dt.05.08.2019.

[Signature]
JUDGE
[Signature]
JUDGE

Encl/

(DB) Mr. Justice Lal Jan Khattak and Mr. Justice Ijaz Anwar

Attested to be true Copy
[Signature]
Ahmad Hussain
Advocate High Court

CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Attested under Article 27 of
the Constitution of the Province of 1984
05 OCT 2019

JUDGMENT SHEET

PESHAWAR HIGH COURT,
PESHAWAR

JUDICIAL DEPARTMENT

Writ Petition No.3710-P of 2019

JUDGMENT



ATTESTED to be
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Date of hearing.....05.08.2019.....

Petitioner(s) ...(Malik Muhammad Hafeez & others) by Mr.
Sajid-ur-Rehman Khan, Advocate.

Respondent(s)...(Government of KPK, through Secretary
Finance Department, Peshawar and others)
...by Mr. Mujahid Ali Khan AAG.....

IJAZ ANWAR, J.- Through this single judgment, this Court shall also dispose of connected writ petition No. 3812-P of 2019 as identical issue qua entitlement/grant of conveyance allowance during vacations to the petitioners being government servants, is involved in both the writ petitions.

3. Arguments of learned counsel for the parties heard and available record perused.

4. Learned AAG, at the very outset objected to maintainability of the writ petitions, firstly, on the ground that under Article 212 of the Constitution of

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Ahmad Hussain
Advocate High Court

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Peshawar High Court
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Islamic Republic of Pakistan, the matter relates to the terms and conditions of service, as such, this Court has got no jurisdiction, besides, he placed reliance on a judgment of Division Bench of this Court 12.12.2018 passed in Writ Petition No.120-B/2016. Learned counsel representing the petitioners was asked to explain whether conveyance allowance is not a term and condition of service and secondly to produce any judgment of the superior Courts, wherein, the matter pertaining to allowances was entertained by the High Courts and question of jurisdiction was discussed, but he failed to do so.

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5. It is pertinent to note that recently, Division bench of this court in WP No. 21-A/2017 "Syed Waqar Hussain Shah & others Vs. Govt: of Khyber Pakhtunkhwa & others" decided on 20.06.2019, while dealing exactly the same issue, has thoroughly discussed and disposed of ibid and connected writ petitions pertaining to the same relief (conveyance allowance of the similarly placed employees of the Education Department). Thus without touching merits, this and the connected writ

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Advocate High Court

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EXAMINER
Peshawar High Court

(16)

(31)

petition are also disposed of in the same terms, leaving the petitioners to approach proper forum for the solicited relief, in accordance with law.

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Announced.
Dt.05.08.2019.

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JUDGE

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Examinet
Peshawar High Court, Peshawar
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1988
05 OCT 2019

Tufail*

[Signature]

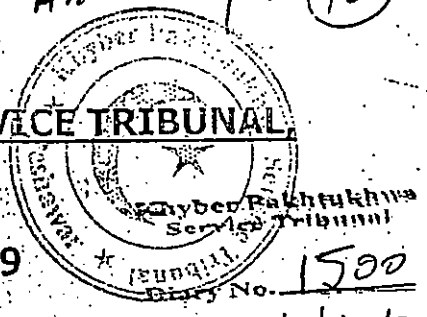
(DB) Mr. Justice Lal Jan Khattak and Mr. Justice Ijaz Anwar

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Abuljad Hussain
Advocate High Court

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Annex F-16 (7)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



APPEAL NO. 1452 / 2019

Mr. Maqсад Hayat, SCT (BPS-16),
GHS Masho Gagar, Peshawar.....**APPELLANT**

Dated 24/10/2019

VERSUS

Attested to be True
14/10/19

- 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.

Attested to be True
14/10/19

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
14/10/19
Registrar

**R/SHEWETH:
ON FACTS:**

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

- 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 employees

14/10/19
11/11/19
M
Recd. Submitted to-day
11/11/19

Appeal No. 1452/2011
Marbad Hayat vs Govt

(17) (18)

11.11.2019

Counsel for the appellant present.

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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.

ATTESTED

[Signature]
Chairman

ANNOUNCED

11.11.2019

[Signature]
Kt
Se

[Signature]

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Peshawar

بعد است جناب سرورس ٹریبونل رشادر

کورت فیس قیمت ایک روپیہ

مورخہ 3/1/2020ء ۲۰۲۰ منجانب
مقدمہ میاں نور بادشاہ بنام حکومت فیبردختونخواہ
دعویٰ

باعث تحریر آنگہ

جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام رشادر کیلئے احمد حسن ایڈووکیٹ / فیبرصیات / فیبر علی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند ہے

المرقوم 3/1/2020ء ماہ جنوری ۲۰۲۰ء

العبد گواہ شہید العبد

Attested by
کے لئے منظور ہے
Haider Ali Advocate
Ahmad Hussain

بمقام رشادر