	Date of order/	
S.No.	proceedings.	Magistrate and that of parties where necessary.
1	2	3
, ·		KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u>
		Service Appeal No. 7476/2021
		Miss Nazia W/O Ayaz Ali R/O village Baghicha Dheri District Mardan, SCT (BPS-16) at GGHS Baghicha Dheri District Mardan. st. Gulraj Bibi D/O Feroz Khan and 22 others. (Appellants)
		Versus
		Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others (Respondents)
	o star i	<u>ORDER</u>
	31 st March, 2022	KALIM ARSHAD KHAN CHAIRMAN Counsel for
		the appellant present and heard.
		2. This order shall also dispose of connected Service
		Appeals No 7477/2021, 7478/2021, 7479/2021, 7480/2021
		and 7481/2021 as in all the appeals similar questions of law
		and facts are involved.
	Ŕ	3. Learned counsel for the appellant produced certified
		copy of judgment passed in Service Appeal No. 12889/2020
~		passed by this Tribunal on 12.07.2021 which was decided in
		the following manner:-
		"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

directed not to deduct the conveyance are allowance from the salaries of the appellants during summer/winter 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 the of 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."

4. When confronted with the situation that the above judgment was declared to be a judgment in *rem* directing the respondents to pay the desired allowance to all the similarly placed employees of the Education Department, learned counsel for the appellant was very fair in saying that he would make an application for initiating Contempt of Court proceedings against the respondents in case they did not honour the above judgment.

5. This being so, this appeal and five other connected appeals are disposed of accordingly. The appellants may file applications for Contempt of Court proceedings against the respondents if they are so desirous, which, if filed, will be decided on its own merits. Consign. Pronounced in open court in Peshawar and given under 6. my hand and seal of the Tribunal this 31st day of March, 2022. Pakhta (KALIM ARSHAD KHAN) Chairman IBILL

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31.01.2022

1- toplation

Learned counsel for the appellant present.

Learned counsel for the appellant seeks adjournment to further prepare the brief. Adjourned. To come up for preliminary hearing on 31.03.2022 before S.B.

(Mian Muhammad) Member(E)

FORM OF ORDER SHEET

Form- A

•	Court c	\$ f
-		
	Case No	7476 /2021
S.No.	Date of order	Order or other proceedings with signature of judge
	proceedings	,
1	2	3
1-	29/09/2021	The appeal of Miss. Naziz presented today by Mr. Wisal Hayat
		Advocate may be entered in the Institution Register and put up to the
		Worthy Chairman for proper order please.
		REGISTRAR
		This case is entrusted to S. Bench at Peshawar for preliminary
2		hearing to be put up there on 26/11/21.
		hearing to be put up there on <u>the strate</u> .
		CHAIR
	26.11.2021	None for the appellant present.
		Notices be issued to the appellant and his counsel. To come
		up for preliminary hearing on 31.01.2022 before S.B.
		up for preliminary hearing on 51.01.2022 before Sile
	· · ·	
		BAL
· ·		(MIAN MUHAMMAD)
		MEMBER (E)
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BEFORE THE KHYB :R PAKHTUNI(HWA SERVICE TRIBUNAL, PESHAWAR

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War APPELLANT

Die Kelte zusiektensom

APP :AL NO./ 2880

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

VERSU 5

- 1- The Government o Khyber Pakhlunkhwa through Chief Secretary, Khyber Pakhtunkhw J, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant Ger eral, Khyber Pakhtunkhwa, Peshawar.
- -5- The Director of (E&E) Department, Khyber Pakhtunkhwa, Peshawar.RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHV/A SERVICE TRIBUT AL ACT, 19: 4 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DE DUCTING THE CONVEYANCE ALLOWANCE OF THE APPELANT DURING WINTER & SUMMER VACATIONS AND ACAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERI DD OF NINET Y DAYS.

PRAYER:

27/10/20

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 previ ously 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 Servarits and to this effect a Notification No. FD (PRC)1-1/2011 dated 14.07.2011 was issi ed. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees



BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Servic Appeal No. 12889/2020 Date of Institution ... 27.10.2020

Date of Decision ... 12.07.2021

Jalalud Din, SCT (BPS-15), GHSS Asbanr, Dir Lower

... (Appellant)

<u>VERSUS</u>

Government of Khybe: Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and four others.

(Respondents)

Mr. NOOR MUHAMMAD (CHATTAK, Advocate

MR. JAVED ULLAH, Assistant Advocate General

For respondents.

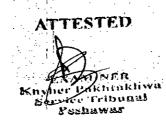
For appellant.

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



to the departmental appell of the appellant within the statutory period of ninety days

3 In order to have a lear picture of the matter in issue, the admitting note dated 18.06. 2021 of the instant appeal is reproduced as below:

"Counsel or the appellant present

Due to influx of abnormally large number of service at peals 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 miscellar eous 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 27:05:2121, contents thereof are reproduced below.

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

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

> Service Fround Beshawar

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hearing stige. 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 in ititution. The Worthy Registrar of this Tribunal has been called and assigned the duty that list of all the appeals be prepared in chronolog cal order and all the appeals be clubbed vith the oldest one, and be submitted for preliminary hearing before this Bench on 18.06.20. 1, irrespective of the previous dates given on he diary. This application is disposed of according'y.

The orcer dated 27.05.2021 as reproduced above his been placed on this file vide order dated 17 06.2021, as the appeal in this file is the. oldest ir. chronological order from the date of enumerated/ institution. Rest of appeals describe I 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 , conjoint y to prevent multiplicity of processes, when judgment passed in a single appeal will settle the particular issue of to enable conveyance allowance similarly in respect of the appellants who have filed appeals other individually because of procedural constraints.

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



submitted by learned counsel for the appellant has be in placed on this file. The copy of judgmei t. dated 11.11.2019 in Service Appeal No. 14-2/2019 titled "Magsad Hayat Versus the Governinent" has also been annexed with the said bri f According to which a Single Bench of this Tri junal disposed of the said appeal while relying on the judgment of the Hon ble Peshawar High Churt Peshawar in Writ Petition No. 3162-P/2019 with the direction for implementation of the sad judgment by the respondents within shorte t possible time. The course was also kept open for the appellant to seek remedy in accordance with law, in case his grievance is not redres ed by the respondents within reasonable time. here is no cavil to the resolution of matter by jud iment dated 11.11.2019 but the likelihood of multiplicity of proceedings cannot be ruled out unless a self-speaking judgment is passed by the Tribur al under due course of law to settle the matte once for all.

Thisproceedings for hearing will take-place in appeal in hand and shall be deemed to have been applied to clubbed appeals without repet tion/replication.

During pendency of this appeal, if any fresh appeil 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 oppeal.

ATTESTED

Points i sised need consideration. The appeal, alongwith all clubbed appeals, is admitted to regular he aring. The appellant in this appeal is directed 12 deposit security and process fee within 10. lays. 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/con ments individually in each and every clubbed appeal. Similarly, the appellants in all the clubied appeals are exempted from the deposit of security and process fee. The shall submit wwritten respondents reply/comments, as discussed above, in office within 0 days of the receipt of notices positively If the written reply/comments are not subjaitted within the stipulated time, the office is directed to submit the file with a report of hon compliance. File to come up for argumer ts 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 employ es are not entitled to be paid conveyance allowance allowance during the summer/winter vacations. After availing the remedy of department all appeals the appellants have approached

1.11.23

TESTED

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

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

Learned counsel for the appellant has contended that 6. 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 sa ary/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 "Magsad 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 LC (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 conter ded that the teaching staff remains on leave during the period of winter and summer vacations and do not perform any duty curing the said period, therefore, they are not entitled to any conveyance allowance during the summer/winter vacations; that being employees of vacational 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 vacational departments. Reliance was placed on 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 respondents are wrong in year. The 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 Courth 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,



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 menioned 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

(SALAH-UD-DIN) MEMBER (JUDICIAL)

(ATIQ-UR-REHMAN VAZIR) MEMBER (EXECUT VE) Tresentation of Application Number of Word

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F MANER Khyber Pachtunkhwa Service Tribunal. Peshawar

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

S.A <u>7476</u>/2021

Miss. Nazia (Appellant)

<u>VERSUS</u>

The Government of Khyber Pakhtunkhwa and Others (Respondents)

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3	Addresses of Parties		P 7
4	Application for		
	condonation of delay		P 8- 9
5	Copy of CNIC	"A"	P 10
6	Copy of the notification dated 20/12/2012 and its better copy	"B"	P11-12
7	Copy of the salary Slips	"С"	P13-14
8	Copy of the departmental appeal	"D"	P15-16
9	Judgment of The Peshawar High Court Peshawar	"Е"	P17- 23
10	Copy of the Service Tribunal judgment	"F"	P 24-25
11	Other Documents		P 26-27
12	Wakalatnama	· · · ·	P 28

Dated: 07/09/2021

Appellant Miss. Nazia Through Wisal Hayat Advocate High Court Tahir Khan Advocate at District WISAL HAYAT Advocate High Court Distt. Courts Mardan

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BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

S. A 7476-12021

Khyber Pakhtukhwa Diary N766S

Miss. Nazia W/o Ayaz Ali D/o Fazal Rabi R/o Village Baghicha Dheri District Mardan, Senior Certified Teacher (BPS16)at Govt Girls High School Baghicha Dheri District Mardan

..... 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, Filedto-deshawar.

......Respondents OFER to -SECTION 4 OF THE KHYBER UNDER_ PAHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY THE AND UNLAWFULLY **DEDUCTING** ILLEGALLY **CONVEYANCE ALLOWANCE OF THE APPELLANT DURING** WINTER AND SUMMER VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Prayers:

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.

Respectfully Sheweth:

On Facts:

- That the Appellant is serving in the Elementary & Secondary Education Department as Senior Certified Teacher (BPS-16) quite efficiently and up to the entire satisfaction of their superiors. (Copy of CNIC is attached as Annexure "A"
- 2. That the Conveyance allowance is admissible to all the Civil Servants and to this effect a notification no. FD (PRC) 01-1-2011 dated 14-07-2011 was issued. That later on vide revised notification dated 20-12-2012 whereby the conveyance allowance for employees working in BPS1to15 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 the notification dated 20-12-2012 attached as Annexure "B")
3. That the appellant was receiving the 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 under the wrong and illegal pretext that the same is not allowed for the leave period. (Copy of the salary slip attached as Annexure "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 been received so far. (Copy of the Departmental Appeal is attached as Annexure "D"
- 5. That some of the colleagues of the appellant filed Writ Petition No: 3162-P/2019 before the Peshawar High Court, Peshawar which was disposed of vide Judgment dated: 01-10-2019 with the direction to approach the proper forum i-e Service Tribunal. (Copy of Judgment is attached as Annexure "E")
- 6. That some of the colleagues of the appellant approached to this August Tribunal in different Service appeal which was allowed by this August Tribunal vide its Judgment dated 11-11-2019(Copy of

Judgment is attached as Annexure "F")

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7. That where after the appellant waited for the statutory period of ninety days but no reply has been received from the respondents. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds among the others.

Grounds:

A) that the action and inaction of the respondents regarding deduction of the Conveyance allowance for vacations period/months is illegal, against the law, facts and norms of natural justice.

B) That the appellant have not been treated by the department in accordance with law and rules on the subject noted above and such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C) That the action of the respondents is without any legal authority, discriminatory and in clear violation of fundamental rights dully conferred by the Constitution and is liable to be declared as null and void.

D) That according to government servants revised leave rules 1981, vacations are holidays and not leave of any kind, and therefore, the deduction of conveyance allowance in vacations is against the law and rules.

E) That there is clear difference between leave and vacation as leave as 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 fully entitled for the grant of conveyance allowance during vacations period.

F) That the Government Servant 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 four days leave in a calendar month 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 twelve 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 for vacation period, the respondents while making the 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 the appellant.

G) That the act of the respondents is illegal, unconstitutional and without any legalauthority and not only discriminatory but also the result of malafide on the part of respondents.

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H) 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.¹

I) 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 earnings of individuals including persons in the services of the federation, therefore, in the light of the said Article the appellant is fully entitled for the grant of conveyance allowance during vacations.

J) That the cause of action accrues to civil servant every month when he is paid salary deficiently, hence, limitation does not run in case of fixation of salary.

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

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for

Dated: 23-08-2021

Appellant Miss. Nazia Through,

Wisal Hayat Advocate High Court,

Tahir Khan Advocate

Sold of the second seco

at Distt Courts Mardan

(6)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

S, A -----/2021

Miss. Nazia

Versus

The Government of Khyber Pakhtunkhwa and others

Affidavit

Miss. Nazia W/o Ayaz Ali D/o Fazal Rabi R/o Village & post office Baghicha Dheri District Mardan, Senior Certified Teacher (BPS: 16) at Govt Girls High School Baghicha Dheri District Mardan, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

Deponent Miss. Nazia

CNIC#15101-8633869-4

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BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

S, A -----/2021

Miss. Nazia

Versus

The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa and Others

Addresses of Parties

Appellant:

Miss. Nazia W/O Ayaz Ali D/o Fazal Rabi, R/o Baghicha Dheri District Mardan, Senior Certified Teacher (BPS16) at Govt Girls High School Baghicha Dheri District Mardan

Respondents:

- 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 Account General, Khyber Pakhtunkhwa, Peshawar.
- 5. The Director (E&SE) Department Khyber Pakhtunkhwa, Peshawar.

Advocalc Distt. Courts

zia, through

Wisal Hayat Advocate High Court,

Tahir Khan Advocate at

Distt Courts Mardan

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL <u>PESHAWAR</u>

- 8)

S, A -----/2021

Miss. Nazia D/o Fazal Rabi

Versus

The Government of Khyber Pakhtunkhwa and others

Application for condonation of Delay

Respectfully Sheweth

- 1. That the petitioner is filling the accompanying appeal the contents of which may graciously be considered as integral part of the instant petition
- 2. That the delay in approaching this Hon'ble Tribunal was due to lockdown and COVID-19 pandemic country wide, which was not deliberate at all but accidental.
- 3. That cause of action accrues to civil servant every month when he is paid salary deficiently, hence, limitation does not run in case of fixation of salary.
- 4. That the law favors adjudication on merits and technicalities of any sort must always be ignored while reaching a just and fair disposal of any les.
- 5. That for proper disposal of the accompanying case on its merits, the condonation of delay is indispensible

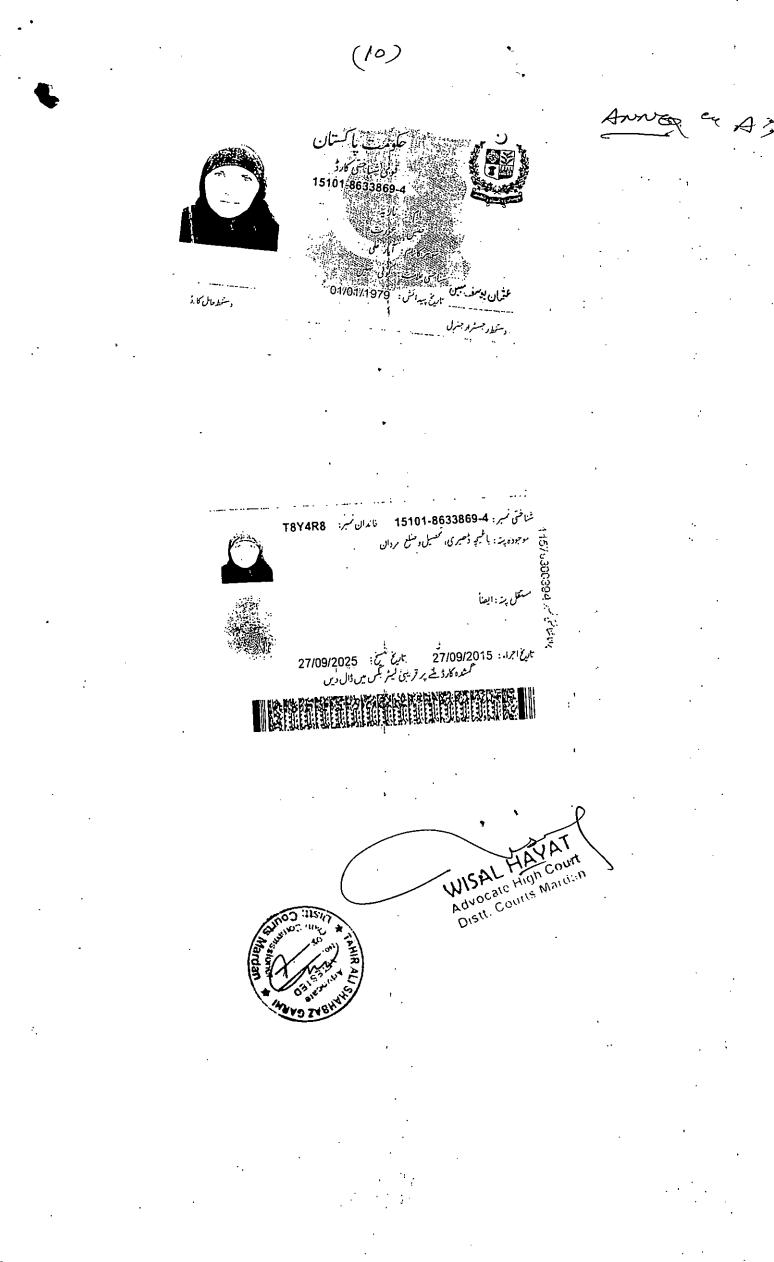
that not only the Appellant has got a prima facie case and having balance of convenience in his favor, but would suffer irreparable loss, if the instant petition is not allowed.

it is therefore, most humbly prayed that on acceptance of the instant petition, the delay if any occurred in filing the accompanying appeal may very graciously be condoned and the accompanying appeal may very be graciously be decided on its merits.

Appellant WISAL HÁYAT Advocate High Court Miss Nazia, through Distt. Courts Mardan

Wisal Hayat Advocate High Court, Tahir Khan Advocate





BEFTER COPY PAGE-5

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGUALTION WING)

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

nnex

ce B-s

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

- 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.

. Subject:

From

.To:

REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KEYBER PAKHTUNKHWA, PROVINCIAL

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 un-

Carron BPS Existing Rate (PM) Revised Rate (PM) 1 1.4 Rs. 1.500/- Rs. 1.700/-	S.No. BPS	Existing D
Bs 1 700/	1. 1-4	Existing Rate (PM) Revised Rate (PM)
	2. 5-10	Rs 1 700/-
RS. 1,500/-		Rs. 1,500/-
A IS. 2,000/- Bs 2,720/		ICS. 2,000/- Rs 2 720/
		Rs. 5,000/- Rs. 5,000/-

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

(Sahibzada Saeed Ahmad) Secretary Finance

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

Advocate High Court Distt. Courts Mardan

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	FINANCE DEPARTMENT	
میشیم محمد می منابع از این از این مراجع این	(REGULATION WING)	
•	NO. FDISO(SR-1178-5212012 Dated Perhawar the: 20-12-2012	
From		
Tò:	The Sacretary to Govil of Knyspi Pazhtupithwa Finance Department, <u>Perchawar,</u>	
and the second second	All Administrative Service to Governal Forder Pakisteriational The Service Member, Board of Remember Mayber Pakisteria. The Secretary to Gamerican Knyber Pakisteria. The Secretary to Chief Minster, Knyber Pakisteria. The Secretary, Remainded Armorphy Knyber Pakisteria. All Moods of Ansched Departments in Knyber Pakisteria. All Policial Agents / District & Speaters Jugges in Knyber Pakisteria.	
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ಪಂಕ್ರಿಕರು	REVISION IN THE RATE OF CONVEYANCE ALLOWANCE & CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PRO	

Dest St.

GOVERNMENT BPS 1.19

The Government of Knyber Pakhturahva has been pleased by enhance / ruvise the rate of Canveyance Allowance admissible to all the Provincial Civil Servantal Gover of Whyber Perhapshule (Working & EPS-1 to EPS-16) with from 1° Sectember, 2012 at the following rates. However, the conveyance allowance for employees in SPS+15 to \$PS+19 udli reman UTKHANGLU.

S.NO	825	EXISTING RATE (PM)	REVISED RATE (PM)
1.	1-4	Fs. 1,500/-	Rs 1,700/-
$\sum_{i=1}^{n}$	5-10	-\Q	Rs.1,840/-
<u>.</u>	11-15	<u>≈s.2,600/</u>	Rs.2,720/-
<u>خ</u>	16-19	<u></u>	Rs.5,000/-

Comeyance Allowance at the momentes per month shall be admissible to 17, 18 and 19 clitters who have not seen sanctioned efficial vehicles. $\{r_i\}_{i \in I} \in \mathcal{F}_{i}$

(Sahiboda Sacod Alumad) Secretary Finance Dated Consumar the 20" December, 2007 Endse NO. EDSO(SR-IDB-E220)2 A Copy is forwarded for information to thet-Anorana General Rander Poplaria, Probane Severalaites to Golycontant of Punjab, Serah & Sabatatan Frank Detter Au Automonous / Seri Abtoscimus Socies in Visios Fakirtaniama

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Advocate High Cou

Distt. Courts Mard

WISA

(INTIAZ AYUB)

Yours Faithfully,

heritings) Sournesse Manuf

NTN .

Dist. Govt. NWFP-Provincial District Accounts Office Mardan Monthly Salary Statement (February-2021)



Personal Information of Mrs NAZIA d/w/s of FAZAL RABI Personnel Number: 00273362 CNIC: 1510186338694

Entry into Govt. Service: 16.07.1999

Length of Service: 21 Years 07 Months 014 Days

Employment Category: Vocational Permanent

Date of Birth: 01.01.1979

Designation: SENIOR CERTIFIED TEACHER 80003519-DISTRICT GOVERNMENT KHYBE DDO Code: MR6126-H.MRS G.G.H.S BAGHICHA DHERI MARDAN

Payroll Section: 003 GPF Section: 001 Cash Center:

GPF A/C No: EDU BR 1766	Interest Applied: Yes	GPF Balance:		539,039.00	
Vendor Number: - Pay and Allowances:	Pay scale: BPS For - 2017	Pay Scale Type: Civil	BPS: 16	Pay Stage: 17	

	Wage type	Amount		Wage type	Amount,
0001	Basic Pay	44,750.00	1000	House Rent Allowance	2,727.00
1210	Convey Allowance 2005	5,000.00	1947	Medical Allow 15% (16-22)	i,530.00
2148	15% Adhoc Relief All-2013	810.00	2199	Adhoc Relief Allow (a) 0%	546.00
2211	Adhoc Relief All 2016 10%	2,996.00	2224	Adhoc Relief All 2017 10%	. 4,475.00
2247	Adhoc Relief All 2018 10%	4,475.00	2264	Adhoc Relief All 2019 10%	4,475.00

Deductions - General

	Wage type	Amount		Wage type	1	Amount
3016	GPF Subscription.	-3,340.00	3501	Benevolent Fund		-800.00
3609	Income Tax	-817.00	3990	Emp.Edu. Fund KPK		-150.00
4004	R. Benefits & Death Comp:	650.00 ["]				0.00

Deductions - Loans and Advances

Loan		Description	Princip	al amount	Dedu	ction	Balance
6505	GPF Loan Princ	ipal Instal	200,00	00.00	-10,000.0	0	160,000.00
		· · · · · · ·	•			1	
Deduction: Payable:	s - Income Tax 12,576.35	Recovered till February-2021:	6,166.00	Exempted:	3143.75	Recoverable:	3,266.60

Gross Pay (Rs.): 71,784.00 Deductions: (Rs.): -15,757.00 Net Pay: (Rs.): 56,027.00

Payee Name: NAZIA

Account Number: 0010019099350013

Bank Details: ALLIED BANK LIMITED, 250611 BALA GARHÍ BALA GARHI,

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: BAGRA[®] City: BUNAIR Temp. Address: City:

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Advocate High Court Dist. Courts Mardan

Email:

(130696/08.03.2021/14:22:29) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted

Dist. Given. NWP P-Previous Monthly. Salary Statement (Luty-2019) Service: 20 Years 00 Monthly. Salary Statement (Luty-2019) Monthly. Salary Statement (Luty-2019) Monthly. Salary Statement (Luty-2019) Monthly. Salary Statement (Luty-2019) Monthly. Salary Statement (Luty-2019) Monthly. Salary Statement (Luty-2019) Monthly. Salary Statement (Luty-2019) Monthly. Salary Statement (Luty-2019) Monthly. Salar	, Zerova						
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The Secretary Education, Khyber Pakhtunkhwa, Peshawar, Khyber Pakhtunkhwa.

Subject: Application for allowing/granting of the `Conveyance Allowance` to the Applicant, According to the reference order/Judgment/Appeal No, 4823/2020, title Mr. Muhammad Ismail (CT BPS-15) Vs The Government of Khyber Pakhtunkhwa, Through Chief Secretary Khyber Pakhtunkhwa Peshawar etc, Dated 11/06/2020 of the Honorable Service Tribunal Peshawar.

SIR,

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- My this application is with the reference to the above mentioned order/judgment whereby "Conveyance Allowance" is allowed in view of the said facts, I may also be allowed the said benefits, Therefore, the applicant submits as under.
 - That the applicant namely Miss Nazia D/o Fazal Rabi is a civil servant, and presently serving as Senior Certified Teacher (BPS16) at Govt. Girls high School Baghicha Dheri Mardan.
 - That the applicant is serving in education department since 16/07/1999 till to date of service is in her credit.
 - That in view of the order/ judgment /appeal of the "Honorable Service Tribunal Peshawar". Dated 11/06/2020, where the Conveyance Allowance has been allowed to Mr. Muhammad Ismail, (CT BPS-15) petitioner. (Copy of which is annexed).
 - That under article 4, 25 & 27 of the Constitution of Pakistan 1973, the applicant being a civil servant, is also entitled for the same/equal treatment, and `Conveyance Allowance may be allowed to the applicant as according to the order / judgment of the august Supreme Court of Pakistan (2009 SCMR 1) in which it has been explained in detail, " 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, dictates

of justice and rule of good governance demand that the benefit of the said decision be ext ended to 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. All citizens are equal before law and entitled to equal protection of law as per Art.25 of the Constitution."

(16)

That the Honorable Apex Supreme Court of Pakistan has vide its judgments 2009 SCMR1 and PLD 2010 SC 878, allowed equal treatment. (Copies of which annexed herewith)

Prayers

In view of the above facts and circumstances, it is most graciously prayed/requested that the applicant may be allowed 'Conveyance Allowance' in the light of the Order/Judgment/Appeal of the 'Honorable Service Tribunal Peshawar' and oblige.

Submitted by Miss. Nazia D/o Fazal Rabi

Doted 20/12/2020

CNIC#15101-8633869-4

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Judgment Sheet

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IN THÉ PESHAWAR HIGH COURT, PESHAWAR JUDICIAL DEPARTMENT.

Writ Petition No. 3162-P/2019 Akhtar Hussain and 697 others..vs..Govt of Khyber Pakhtunkh va

<u>JUDGMENT</u>

Date of hearing.....01.10.2019.....

Petitioner(s) by Mr. Noor Mohammad Khattak, Advocate.

Mr. Mujahid Ali Khan, AAG, for respondents.

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ROOH-UL-AMIN KHAN, J:- Through this common judgment we, proposed to decided the instant as well as the connected writ petitions as all having involved common question of law and facts, the particulars of which are given

> WP No. 3162-P/2019 titled Akhtar Hussain etc..vs..Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.

 WP No. 3064-P/2019 titled Habeeb Ullah etc...Vs..
 Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 7 others.

WP No. 3084-P/2019 titled Sikandar Khan etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.

WP No. 3178-P/2019 titled Abdur Rehman etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others. *

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Advocate-High Court Distt. Courts Mardan WP No. 3233-P/2019 titled Amjid Ali etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.

- WP No. 3283-P/2019 titled Gul Saeed etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.
- WP No. 3287-P/2019 titled Syed Israr Shah etc...Vs..
 Government of Khyber Pakhtunkhwa through Chief
 Secretary, Peshawar and 7 others.
- viii. WP No. 3288-P/2019 fitled Firdous Khanetc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.
 - WP No. 3353-P/2019 titled Hafiz Inam Ur Rehman etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 6 others.
 - WP No. 3366-P/2019 titled Jehanzeb Khan etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.
- xi.

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WP No. 3390-P/2019 titled Haji Rehman etc...Vs..
Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar and 2 others.
WP No. 3520-P/2019 titled Mohammad Khalid

etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.

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wP No. 3567-P/2019 titled Husnur Rehman etc...Vs..
 Government of Khyber Pakhtunkhwa through Chief
 Secretary, Peshawar and 3 others.

xiv. WP No. 3667-P/2019 titled Maqsad Hayat etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.

xv. WP No. 3939-P/2019 titled Syed Khurshid Shah etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 5 others.

wP No. 4072-P/2019 titled Subhan Ullah etc...Vs..
 Government of Khyber Pakhtunkhwa through Chief
 Secretary, Peshawar and 6 others.

xvii. WP No. 4758-P/2019 titled Sohrab Havat etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.

2. As per averments of the writ petition, the petitioners are serving in the Elementary & Secondary Education Department on their respective posts. On 14.7.2011 the Government of Khyber Pakhtunkhwa enhanced the conveyance allowance to all the Civil Servants i.e. from BPS-1 to 15, including the petitioners, which was subsequently revised vide another notification dated 20.12.2012 and was further enhanced. But the respondents without any valid and justiffable

reasons stopped / deducted the payment of conveyance

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Advocate High Court Distt. Courts Marcian allowance under the wrong and illegal pretext that the same is not allowed for the leave period.

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3. In essence, the grievance the petitfoners is that they were receiving the conveyance allowance under the notifications mentioned above, which was stopped without any justifiable reason.

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Since the matter pertain to grant of conveyance allowance which is part and parcel of pay. Similar controversy came before this Court in Writ Petition No. 3509-P/2014 titled (Hafiz Mohammad Ilyas etc..vs..Government of Khyber Pakhtunkhwa), wherein the pay and salary were defined in the following manner.

"7. To resolve the controversy as to whether payment of allowances to a civil servant falls in chapter-2 of Khyber Pakhtunkhwa Civil Servants Act, 1973 i.e. terms and conditions of service, it is necessary to reproduce the definition of "pay" provided in section 2(e) of the Khyber Pakhtunkhwa Civil Servants Act, 1973 which reads as under:

" 2. (e)-- "Pay" means the amount drawn monthly by a civil servant as pay, and includes special pay personal pay and any other emoluments declared by the prescribed authority to be paid. " (emphasis provided).

The word "emolument" used in the above quoted definition clause of the Civil Servants Act, 1973, according to its dictionary meaning, denotes wages and benefits received as compensation for

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holding an office or having employment. The woru emolument is basically derived from the Latin word emolumentum. It originally meant "the sum paid to a miller for grinding a customer wheat". Today, the term exists mostly as a bit of archaic legalese, but it might be within the route of expression i.e. "grinding out a living". From the above it is manifest that emoluments are essentially the benefits that one gets from the working of being employed. Emolument is the profit from employment and is compensation in return of services, hence the emoluments are part and parcel of pay, Section 17 being part of chapter-2 i.e. terms and conditions of service of a civil servant provides that, a civil servant appointed to a post shall be entitled, in accordance with rules, to the pay sanctioned for the post. Likewise, Rule 9(21) of (FR/SR) provide, the definition of pay which means the amount drawn monthly by a government servant as ;

(i) the pay, other than special pay or pay granted in view of his personal qualification, which has been sanctioned for the post held by him substantively or in an officiating capacity, or to which he is entitled by reason of his position in a cadre, and (ii) overseas pay, technical pay, special pay and personal pay and

(iii) any other emoluments which may be specially classed as pay by the governor general.

The legislature in its wisdom has wisely used the word "pay" instead of salary in definition clause and section 17 of Khyber Pakhtunkhwa Civil Servants Act, 1973. The word 'pay' connotes

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payment of wages including emolument in broader spectrum while the salary is used for amount that one receives in return for work and or service provided, which is paid periodically i.e. over a specified interval of time such as weekly or most commonly monthly. The term "salary" has been dealt with at page-553 of Corpus Juris Secundem Vol. 77 as under:-

<u>"Salary"</u>. The word "Salary" is defined has meaning fixed compensation regularly paid by the year, quarter, month or week; fixed compensation for regular work, or for continuous services over a period of time; periodical compensation for services; compensation for services rendered; per annum compensation mean in official and in some other situation, or station; legal compensation.

Salary is also defined as meaning stipulated periodical recompense; or consideration paid, or stipulated to be paid to a person on regular interval for services usually a fixed sum to be paid by the year or half year, quarter; reward or consideration paid or agreed to be paid to a person on a regular intervals by the year, month or week for services; reward of fixed or recompense for services rendered or performed; reward or compensation of services rendered or performed.

From the above mentioned definition it is manifest that the "salary" of a civil servant is a fixed amount regularly paid as compensation to the employee, whereas the pay means an amount received by a civil servant including other emoluments i.e. allowances."

> Advocate High Distt. Courts M

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5. Besides, certain other petitions filed by the Teachers /employees of the same department serving from other corners of the province which were decided by Abbottabad Bench of this Court, wherein it was held that the conveyance allowance being part of pay fall in terms and conditions of civil servant and it can adequately be claimed through an appeal by adopting the prescribed procedure under the Khyber Pakhtunkhwa Civil Selvants Act, 1974.

6. For the reasons given hereinabove, the petitioners are civil servants and their claim falls in terms and conditions of service enumerated in Chapter-2 of the Khyber Pakhtunkhwa Civil Servants Act, 1973, wherein the jurisdiction of this Court is expressly barred by Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. Resultantly, this and the connected writ petition mentioned above stand dismissed being not maintainable. However, the petitioners are liberty to approach the proper forum, if so desire.

Announced on; 1st of October, 2019 <u>Jacuhad</u>

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JUDGE

(DB) Mr. Justice Rooh UT Amin Khan & Mr. Justice Mohammad Naces Anwas

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRUBH

PESHAWAR

APPEAL NO. 1452 /2019

Mr. Magsad Hayat, SCT (BPS-16), GHS Masho Gagar, Peshawar.....

VERSUS

1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.

APPELI

- 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 UDNER 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 & SUMMER WINTER OF THE APPELLANT DURING 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 redte-day previously with all back benefits. Any other remedy which

this august Tribunal deems fit that may also be awarded in Registrar favor of the appellant. 24/10/19

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-1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency 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 ion vide revised Notification dated 2012.2012 whereby the conveyance allowance for employees

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Advocate High Court Distt. Counts Mardal

Appeal No. 1452/2019 Markad Hayat vs Govt

11.11.2019

Counsel for the appellant present.

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.

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11.11.2019

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رمارین بنام: <u>می مونس</u> آف **~**20メ باعث تحريراً نكبه مقدمہ مندرجہ عنوان بالامیں اپنی طرف سے واسطے پیردی وجواب دہی وکل کاروائی 1 b متعلقة أن مقام من من ي لئ و و م من م ع ط ا مقررکر کے اقرار کیاجاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کاکال اختیارہوگا۔ نیزوکیل صاحب کو راضی نامہ دتقرر ثالث وفیصلہ پر حلف دینے جواب دہی اور ا قبال دعویٰ اور بصورت ڈ گری کرانے اجراءاور وصولی چیک رو پیدادر عرضی دعویٰ اور درخواست ہر سم کی نصدیق زراس پرد سخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم ہیر دی یا ڈ⁷ری یک طرفہ یا، پیل کی برآمدہوگی اور منسوخی دائر کرنے کی اپیل گکرانی ونظرتانی و بیردی کرنے کا اختیار ہوگااور بصورت ضرورت مذکور کے عمل باجزوی کاروائی کے واسطے اور دکیل بإمختار قانوني كوابني جمراه مااين بجائة تقرر كااختيار بوگا اورصاحب مقرر شده كوبهي جمله مذكوره بالااختيارات حاصل ہوئے اوراسکاساختہ برداختہ منظور وقبول ہوگااور دوران مقدمہ میں جوخرچہ وہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہوئے۔ نیز بقایاد خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیش مقام دورہ پر ہویا حد ، باہر ہوتو وکیل صاحب پابند ہوئے کی بیروی مقدمہ ندکورلہذادکالت نامہ ککھ دیاتا که سندر ہے۔ , 20 V المرقوم 1 س ایرمنظور بمقام: WISA Distt. Courts Mardan