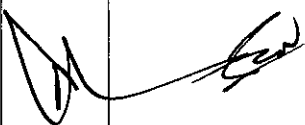


S.No.	Date of order/ proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	31 st March, 2022	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p style="text-align: center;">Service Appeal No. 7476/2021</p> <p>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)</p> <p style="text-align: center;"><u>Versus</u></p> <p>Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others. ... (Respondents)</p> <p style="text-align: center;"><u>ORDER</u></p> <p style="text-align: center;"><u>KALIM ARSHAD KHAN CHAIRMAN.-</u> Counsel for the appellant present and heard.</p> <p>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.</p> <p>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:-</p> <p style="text-align: center;">"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</p>

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 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.

6. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 31st day of March, 2022.





(KALIM ARSHAD KHAN)
Chairman

31.01.2022

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.





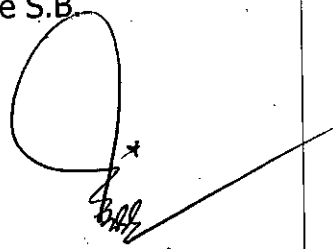
(Mian Muhammad)
Member(E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 7476 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/09/2021	<p>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.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>26/11/21</u>.</p> <p> CHAIRMAN</p>
	26.11.2021	<p>None for the appellant present.</p> <p>Notices be issued to the appellant and his counsel. To come up for preliminary hearing on 31.01.2022 before S.B.</p> <p> (MIAN MUHAMMAD) MEMBER (E)</p>

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

APPEAL NO. 12889 / 2020



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

APPELLANT

VERSUS

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

RESPONDENTS

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

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant is serving in the Elementary & Secondary Education Department as SCT (BPS-16) quite efficiently and up to the entire satisfaction of their superiors.
- 2- That the Conveyance Allowance is admissible to all the Civil Servants and to this effect a Notification No. FD (PRC)1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 12889/2020

Date of Institution ... 27.10.2020

Date of Decision ... 12.07.2021



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

... (Appellant)

VERSUS

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

Mr. NOOR MUHAMMAD KHATTAK,
Advocate

For appellant.

MR. JAVED ULLAH,
Assistant Advocate General

For respondents.

MR. SALAH-UD-DIN

MEMBER (JUDICIAL)

MR. ATIQ-UR-REHMAN WAZIR

MEMBER (EXECUTIVE)

JUDGMENT:

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

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

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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


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

"Counsel for the appellant present.

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

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

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


ATTESTED

 Registrar
 Service Tribunal
 Dehrawar

hearing stage. It would result in abuse of the process of Tribunal, if the similar appeals are separately heard despite being the similarity of claim in all the appeals. Therefore, it would be in the fitness of things to club all appeals with one the oldest in order of chronology in light of the time of institution. The Worthy Registrar of this Tribunal has been called and assigned the duty that list of all the appeals be prepared in chronological order and all the appeals be clubbed with the oldest one, and be submitted for preliminary hearing before this Bench on 18.06.20.1, irrespective of the previous dates given on the diary. This application is disposed of accordingly.

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

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

ATTESTED



 Registrar
 Service Tribunal
 Patna

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

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

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

ATTESTED


 Khair-ud-Din
 Member
 Service Tribunal
 Peshawar

Points raised need consideration. The appeal, alongwith all clubbed appeals, is admitted to regular hearing. The appellant in this appeal is directed to deposit security and process fee within 10 days. Thereafter, notices of this appeal alongwith list of clubbed appeals be given to the respondents but their comments/written reply as filed in connection with appeal in hand shall be deemed to have been filed in all the clubbed appeals. There is no need of filing reply/comments individually in each and every clubbed appeal. Similarly, the appellants in all the clubbed appeals are exempted from the deposit of security and process fee. The respondents shall submit written reply/comments, as discussed above, in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 12/07/2021 before the D.B"

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

ATTESTED


 P.S. Kishore
 Member, P.K. Kishore
 Service Appeal
 Geshwar

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

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

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

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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

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


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

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

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

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

ATTESTED



EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

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

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

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

ATTESTED


 FEDERAL SERVICE TRIBUNAL
 Service Tribunal
 Islamabad

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

ANNOUNCED
12.07.2021

SD/r
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

SD/r
(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

Date of Presentation of Application 29-7-21
Number of Words 4000
Copying Fee 42/-
Urgent Yes
Total 42/-
Name of Copyist -
Date of Completion of Copy 30/7/21
Certified to be true copy of Delivery of Copy 30/7/21

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

S.A 7476 /2021

Miss. Nazia (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa and Others (Respondents)

INDEX

S.No	Description	Annexure	Pages
1	Memorandum of Appeal		P1-5
2	Affidavit		P 6
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	"C"	P13-14
8	Copy of the departmental appeal	"D"	P15-16
9	Judgment of The Peshawar High Court Peshawar	"E"	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

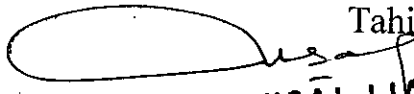
Appellant _____

Miss. Nazia Through

Wisal Hayat Advocate High Court

Tahir Khan Advocate at District

Courts Mardan


WISAL HAYAT
Advocate High Court
Distt. Courts Mardan



BEFORE THE HONOURABLE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7665

Dated 29/9/2021

S, A 7676---/2021

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, Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER
PAHTUNKHWA 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 VACATIONS AND AGAINST NO
ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF
THE APPELLANT WITHIN THE STATUTORY PERIOD OF
NINETY DAYS.

Filed to-day

Registrar

29/9/2021

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:

1. - 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 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 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")**

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 legal authority and not only discriminatory but also the result of malafide on the part of respondents.

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.

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

WISAL HAYAT
Advocate High Court
Distt. Courts Mardan

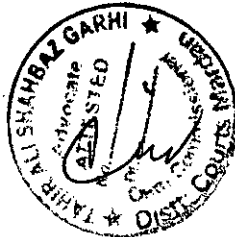
Appellant

Nazia
Miss. Nazia Through,

Wisal Hayat Advocate High Court,

Tahir Khan Advocate

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.

ATTESTED
M. ALI KHAN ADVOCATE
Oath Commissioner Mardan
No. 1996 Date 30-8-21

Deponent

Miss. Nazia

Nazia

CNIC#15101-8633869-4

(7)

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.


WISAL HAYAT
Advocate High Court
Distt. Courts Mardan



Appellant

Miss. Nazia, through

Wisal Hayat Advocate High Court,

Tahir Khan Advocate at

Distt Courts Mardan

(8)

BEFORE THE HONOURABLE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

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 indispensable

that not only the Appellant has got a prima facie case and having balance of convenience in his favor, but would

(9)

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.


WISAL HAYAT
Advocate High Court
Distt. Courts Mardan

Nazia Appellant
Miss Nazia, through

Wisal Hayat Advocate High Court,

Tahir Khan Advocate

at Distt Courts Mardan



Annex A



حکومت پاکستان

قومی شناختی کارڈ
15101-8633869-4



01/01/1979

عثمان یوسف مبین

دستوار جسٹرو جنرل

دستور العمل کارڈ

شناختی نمبر: 15101-8633869-4 نامدان نمبر: T8Y4R8



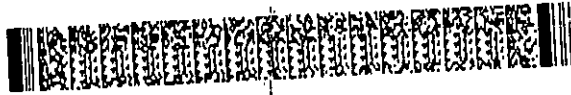
موجودہ پتہ: باٹیکو ڈھیری، تحصیل و ضلع مردان

15101-8633869-4

مسئلہ پتہ: ایضاً



تاریخ اجراء: 27/09/2015 تاریخ سرخ: 27/09/2025
گمشدہ کارڈ کے پرقریبی لیٹرنگس میں ڈال دیں



WISAL HAYAT
Advocate High Court
Distt. Courts Mardan



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.

Annex cc B-9

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.

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 vehicle.

Your Faithfully

(Sahibzada Saeed Ahmad)
Secretary Finance

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

ATTESTED

WISAL HAYAT
Advocate High Court
Distt. Courts Mardan

(12)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WANG)

NO. FDSO(SR-1178-52/2012
Dated Peshawar the: 26-12-2012

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 Government, 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.

Subj:

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-19) 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,

(Sahibzada Saad Ahmad)
Secretary Finance

Encls: NO. FDSO(SR-1178-52/2012

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.

(INTIAZ AYUB)

Additional Secretary (Revenue)

WISAL HAYAT
Advocate High Court
Distt. Courts Mardan

ATTN: STE

(13)

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



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Personal Information of Mrs NAZIA d/w/s of FAZAL RABI

Personnel Number: 00273362 CNIC: 1510186338694 NTN: .
 Date of Birth: 01.01.1979 Entry into Govt. Service: 16.07.1999 Length of Service: 21 Years 07 Months 014 Days

Employment Category: Vocational Permanent

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)	1,530.00
2148	15% Adhoc Relief All-2013	810.00	2199	Adhoc Relief Allow @10%	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		Amount
3016	GPF Subscription	-3,340.00	3501	Behevolent 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	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	200,000.00	-10,000.00	160,000.00

Deductions - Income Tax

Payable: 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 GARHI BALA GARHI.

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: BAGRA

City: BUNAIR

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

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

Handwritten signature
WISAL HAYAT
 Advocate High Court
 Dist. Courts Mardan

(14)

Dist. Govt. NWFP-Provincial
District Accounts Office Mardan
Monthly Salary Statement (July-2019)



Personal Information of Mrs NAZIA d/w/s of FAZAL RABI

Personnel Number: 00273362 CNIC: 11579300394
 Date of Birth: 01.07.1979 Entry into Govt. Service: 16.07.1999

NTN:
 Length of Service: 20 Years 00 Months 017 Days

Employment Category: Vocational Permanent

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: EDUBR001766 Interest Applied: No **GPF Balance: 255,301.00**

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017, Pay Scale Type: Civil BPS: 16 Pay Stage: 15

Wage type		Amount	Wage type		Amount
0001	Basic Pay	-41,710.00	1000	House Rent Allowance	2,727.00
1947	Medical Allow 15% (16-22)	1,530.00	2148	15% Adhoc Relief All-2013	810.00
2199	Adhoc Relief Allow @10%	546.00	2211	Adhoc Relief All 2016 10%	2,996.00
2224	Adhoc Relief All 2017 10%	4,171.00	2247	Adhoc Relief All 2018 10%	4,171.00
2264	Adhoc Relief All 2019 10%	4,171.00			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	-385.00	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: 7,699.15 Recovered till July-2019: 385.00 Exempted: 3079.59 Recoverable: 4,234.56

Gross Pay (Rs.): 62,832.00 Deductions: (Rs.): -5,764.00 Net Pay: (Rs.): 57,068.00

Payee Name: NAZIA

Account Number: 0010019099350013

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

Leaves: Opening Balance: Aailed: Eamed: Balance:

Permanent Address: BAGRA

City: BUNAIR

Domicile: NW - Khyber Pakhtunkhwa

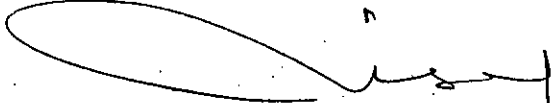
Housing Status: No Official

Temp. Address:

City:

Email:

(130695/26.07.2019/12.38:28) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted


WISAL HAYAT
 Advocate High Court
 Dist. Courts Mardan

(15)

Answer 19

To,

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,

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 extended to other civil servants also, who may, not be parties to that litigation, instead of

(16)

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.”

- 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

Nazia

Miss. Nazia D/o Fazal Rabi

CNIC# 15101-8633869-4

Dated

20/12/2020

Wisal Hayat
WISAL HAYAT
Advocate High Court
Distt. Courts Mardan

(17)

Annex E

Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR.
JUDICIAL DEPARTMENT.

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



JUDGMENT

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

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

Mr. Mujahid Ali Khan, AAG, for respondents.

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 below.

- i. WP No. 3162-P/2019 titled Akhtar Hussain etc..vs..Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.
- ii. WP No. 3064-P/2019 titled Habeeb Ullah etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 7 others.
- iii. WP No. 3084-P/2019 titled Sikandar Khan etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.
- iv. WP No. 3178-P/2019 titled Abdur Rehman etc...Vs.. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 4 others.

Rooh-ul-Amin

ATTESTED

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EXAMINER
Peshawar High Court

WISAL HAYAT
Advocate High Court
Distt. Courts Mardan

- v. WP No. 3233-P/2019 titled Amjid Ali etc...Vs..
Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar and 4 others.
- vi. WP No. 3283-P/2019 titled Gul Saeed etc...Vs..
Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar and 4 others.
- vii. 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 titled Firdous Khan etc...Vs..
Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar and 4 others.
- ix. WP No. 3353-P/2019 titled Hafiz Inam Ur Rehman
etc...Vs.. Government of Khyber Pakhtunkhwa
through Chief Secretary, Peshawar and 6 others.
- x. WP No. 3366-P/2019 titled Jehanzeb Khan etc...Vs..
Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar and 4 others.
- xi. WP No. 3390-P/2019 titled Haji Rehman etc...Vs..
Government of Khyber Pakhtunkhwa through Chief
Secretary, Peshawar and 2 others.
- xii. 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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ATTESTED

ATTESTED

EXAMINER
Peshawar High Court

Wajid
WISAL HAYA
Advocate High Court
Distt. Courts Mardan

- xiii. 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 Maqсад 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.
- xvi. 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 Hayat 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 justifiable reasons stopped / deducted the payment of conveyance

ATTESTED

M. J.

ATTESTED

EXAMINER
Peshawar High Court

WISAL HAYAT
Advocate High Court
Distt. Courts Mardan

allowance under the wrong and illegal pretext that the same is not allowed for the leave period.

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

4. 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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EXAMINER
Peshawar High Court

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WISAL HAYAT
Advocate High Court
Distt. Courts Mardan

holding an office or having employment. The word 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

Conclusion

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EXAMINER
Peshawar High Court

WISAKUBIAYAN
Advocate High Court
Distt. Courts-Mardan

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 Secundum Vol. 77 as under:-

"Salary". 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.

Conclusion
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."

ATTESTED

ATTESTED

EXAMINER
Peshawar High Court

WISAL HAYAT
Advocate High Court
Distt. Courts Mardan

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 Servants 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
"Zorshad"

JUDGE

JUDGE

(DB) Mr. Justice Rooh Ul Amin Khan & Mr. Justice Mohammad Naeem Anwar

ATTESTED

CERTIFIED TO BE TRUE COPY

EXAMINER
 Peshawar High Court, Peshawar
 Authorized Under Article 217 of
 the Constitution of Pakistan Order 1406

21 OCT 2019

WISAL HAYAT
 Advocate High Court
 Distt. Courts Mardan

"Annex F"

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

APPEAL NO. 1452 /2019



Mr. Maqсад Hayat, SCT (BPS-16),
GHS Masho Gagar, 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:

ATTESTATION FACTS:

- 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 12.02.2012 whereby the conveyance allowance for employees

Registrar
Khyber Pakhtunkhwa Service Tribunal
Peshawar
11/11/19

ATTESTED

WISAL HAYAT
Advocate High Court
Distt. Courts Mardaj

Appeal No. 1452/2019
Marbad 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.

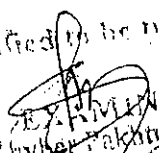
Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar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



Chairman

ified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

ANNOUNCED

11.11.2019


WISAL HAYAT
Advocate High Court
Distt. Courts Mardan

Track Summary

Delivered

Article Id: rgl46343269



Summary

Article ID	rgl46343269
Booking office	Peshawar
Delivery office	Peshawar GPO

ARTICLE TRACK DETAIL

December 22, 2020

8:05 AM Peshawar
 Received at Peshawar DMO

9:54 AM Peshawar
 Dispatch from DMO Peshawar to delivery office
 Peshawar GPO

11:14 AM Peshawar GPO
 Sent out for delivery

1:04 PM Peshawar GPO
 Delivered at delivery office Peshawar GPO to
 ADDRESSEE

WISAL HAYAT
 Advocate High Court
 Distt Courts Mardan

بعدالت مناب جسٹس فیض الرحمن

کوٹ فیس	
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مورخہ: 2021ء منجانب ریسل
 مقدمہ: مس نانہہ بنام: دی گورنمنٹ آف گلگت و بلتستان

دعویٰ: ریسل

جرم:

باعث تحریر آنکے

ریسل

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی وکیل کاروائی متعلقہ آن مقام کے 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 و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمد ہوگی اور منسوخی دائر کرنے کی اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مذکور کے عمل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برداشت 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 پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

جسٹس

ماہ ستمبر 2021ء

بد گواہ شد

کے لئے منظور ہے۔

بمقام:

WISAL HAYAT
 Advocate High Court
 Dist. Courts Mardan

