

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

Implementation Petition No. \_\_\_\_\_/2023  
In  
Appeal No. 12889/2020

Khaliq Ul Wahab & other      VS      EDUCATION DEPTT  
& OTHERS

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**PETITIONER/APPLICANT**

**THROUGH:**



**Munfat Ali Yousafzai**  
**Advocates High Court**  
**Peshawar**  
**Contact No 0344921367**




*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 the summer/winter vacations. The conveyance allowance if any, already deducted should be reimbursed to the appellants forthwith".* Copy of the judgment is attached as annexure.....C.


- 3- That after obtaining attested copy of the judgment dated 12.07.2021 the petitioners and the other similar employees submitted the same before the respondents for implementation but till date the judgment of this Tribunal has not been implemented by the respondents in letter and spirit.
- 4- That the petitioner has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may very kindly be directed to implement the judgment dated 12.07.2021 in letter and spirit, and return/pay all the deducted amount of conveyance allowance to the employees. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

**Petitioners**

Mr. Khaliq-Ul-Wahab, SST (BPS-16), GHS Jagan Nath Razzar. 

Mr. Maqbool Khan, SST, GHS Dhobian, District Swabi 

Mohammad Ali S/o Aseem Khan SET GHS Anar Ba Distirct Mardan 

Dated: 26.01.2023.

Through:



**Munfat Ali Yousafzai,  
Advocates**

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

Implementation Petition No. \_\_\_\_\_/2023

In

Appeal No. 12889/2020

**Khaliq Ul Wahab & Another**

**VS**

**EDUCATION DEPTT  
& OTHERS**

**AFFIDAVIT**

I **Munfat Ali Yousafzai Advocate** on behalf of the petitioners, do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



**Munfat Ali**  
**Advocates High Court**  
**Peshawar**

**PENSION ROLL DATA SHEET  
NOT A PAYMENT ADVICE**

A - 4

A - 4

Date of issue : 08.10.2018  
 PPO Type : FRESH  
 PPO Number : 00120652-01  
 Pensioner ID : 00120652  
 Pension Register No.  
 Pensioner's Name : MOHAMMAD ALI  
 Father / Husband name : ASEEM KHAN  
 Designation : SENIOR ENGLISH TEACHER  
 NIC No : 1610134904425  
 Grade / Scale : 16  
 Department/Min : GOVT HIGH SCHOOL ANAR BA  
 Pensioner's Type : SELF  
 Pension Type : SUPERANNUATION  
 Date of Birth : 14.06.1958  
 Date of appointment : 22.11.1981  
 Date of retirement : 13.06.2018  
 Date of Death :  
 Date of commence : 14.06.2018  
 Date of Restoration :  
 Accounts office ID : MK  
 Accounts office Name : Mardan  
 Federal / Province : Khyber Pakhtunkhwa  
 Length of Qualifying Service : 36 years, 6 months, 22 days  
 No. and Date of sanction of pension / Letter No. : NO.3504  
 DT 17.07.2018  
 and the date of the other Audit and Accounts officer authorising  
 the Pension Gratuity/Commutation  
 Permanent Address: VILL. & PO GUMBAT MARDAN

Note:  
 Age : 60 years  
 Last Drawn pay/Emoluments (Rs.) : 50830.00  
 Gross Pension (Rs.) : 35581.00  
 1/4th Surrendered Portion (Rs.) :  
 Commuted Portion (Rs.) : 12453.35  
 Net Pension (Rs.) : 23127.65  
 Net Family Pension (Rs.) : 0.00  
 Amount of Commutation (Rs.) : 1848859.00  
 With Held Amount (Rs.) : 0.00  
 Life Time Arrears (Rs.) : 0.00  
 Arrears of Pension (Rs.) : 0.00  
 Special Additional Pension (Rs.) : 0.00  
 Commutation Percentage : 35.00  
 Commutation Table value : 12.37  
 Recovery on A/C of :  
 Debitable to Govt : Khyber Pakhtunkhwa

**PROPOSED PENSION SLIP**

Payment details

Wage Type	Wage Type Text	Amount
0100	Monthly Pension - Self	23127.65
0101	Pension Increases - Self	12612.72
1599	Medical Allow - Pensioner	4626.61
1600	Med. All. 2014 Pensioner	1156.50
3901	Arrears of Pension	157502.00

TOTAL = 202225

*[Signature]*  
 Asst. A/c Officer  
 Distt. A/c Officer  
 Mardan

He/She is also entitled to the following increases.

Sr No	Period	Increase % of amount	Increase Amount	W.E.F
1	JUL 2011	15.00%	3469.15	15.06.2018
2	JUL 2013	10.00%	2659.68	15.06.2018
3	JUL 2014	10.00%	2925.65	15.06.2018
4	JUL 2017	10.00%	3218.21	15.06.2018
5	JUL 2018	10.00%	3540.63	01.10.2018
6	"	10.00%	0.00	
7				
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24				
25				
26				
27				

Bank Details

Bank Account Number : 3045088045  
 Bank Branch : MARDAN MAIN BRCH  
 MARDAN MAIN BRCH  
 Payment Mode : NATIONAL BANK OF PAKISTAN

ACCOUNTS OFFICER  
(Pension)

Document Printed on 08.10.2018 by 124743

*[Signature]*  
 M

B \* 5

Pensioner Data Ve

Date of issue : 21.11.2017  
PPO Type : FRESH  
PPO Number : 00229712-01  
File No:  
Pension Register No:  
Pensioner's Name : MAQBOOL KHAN  
Father / Husband name : TAJ ALI KHAN  
Designation: SENIOR CERTIFIED TEACHER  
NIC No.: 1620106977325  
Grade / Scale : 16  
Department.Min: HEAD MASTER GHS DOBIAN SW  
Pensioner's Type: SELF  
Pension Type: SUPERANNUATION  
Date of Birth : 01.11.1957 ✓  
Date of appointment: 04.12.1983 ✓  
Date of retirement: 01.11.2017  
Date of Death:  
Date of commence : 01.11.2017  
Date of Restoration : 14.03.2030  
Accounts office ID : SU  
Accounts office Name : Sawabi  
Federal / Province : Dist. Govt. KP-Provincial  
Length of Qualifying Service : 33 years, 10 months, 28 days  
Old PPO Number :  
No. and Date of sanction of pension / Letter No. :  
and the date of the other Audit and Accounts officer authorising  
the Pension/Gratuity/Commutation  
Permanent Address:

PPONO  
6739/05

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M

C-6

Part 732  
V-4 19

OFFICE OF THE DISTRICT ACCOUNTS OFFICER, SWABI

NO.DAO-SWABI/PAYROLL/

Dated 05-07-2021

To

The Pension Section  
Local Office

Subject

L.P.C AND TRANSFER OF SERVICE DOCUMENTS IN RESPECT OF  
MR. KHALID-UL-WAHAB Ex-SST (Bs-16)

Memo

Consequent upon the Transfer/Posting of above Named Officer to your audit jurisdiction his/her L.P.C(as given below),service statement, personal file and service book are/is hereby set/set herewith for record and further Necessary action.

Last pay Certificate

He has been paid up to and for 31.05.2021 at the following rates.

Pay and allowance

Deduction

Pay Rs: 41710/- PM

G.P.F.D 3340/- A/C NO

2727/- PM

BF 1500/-

5000/- PM

R&BDC 650/-

1500/- 797/- PM

I.Tax 668/-

582/- 2996/- PM

EEF 150/-

4171/- PM

4171/- PM

4171/- PM

TOTAL 67825/- PM

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(M)

He/ She made over charge on 07-04-2021 (FN/AN)

He is authorized to draw pay and allowance from - to - at the above rates

Over payment of pay and allowance for the period from 08.4.2021 to 30.04.2021 may be recovered at your end

Other Recoveries

- 1. T.A Advance
- 2. H.B.A
- 3. Motor Car advance

Copy forwarded to

Fund Section (local) for Transfer of G.P.Fund Balance to the respective District

*Handwritten signature*  
DISTRICT ACCOUNTS OFFICER  
Swabi

*sd/-*  
District Accounts Officer  
Swabi

D-7

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,  
PESHAWAR.

Service Appeal No. 12889/2020

Date of Institution ... 27.10.2020

Date of Decision ... 12.07.2021



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

... (Appellant)

VERSUS

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

Mr. NOOR MUHAMMAD KHATTAK,  
Advocate

For appellant.

MR. JAVED ULLAH,  
Assistant Advocate General

For respondents.

MR. SALAH-UD-DIN

MEMBER (JUDICIAL)

MR. 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.

A. J. Khan 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

NOTED

A. J. Khan  
Khyber Pakhtunkhwa  
Services Tribunal





9 (8)

hearing stage. It would result in abuse of the process of Tribunal, if the similar appeals are separately heard despite being the similarity of claim in all the appeals. Therefore, it would be in the fitness of things to club all appeals with one the oldest in order of chronology in light of the time of institution. The Worthy Registrar of this Tribunal has been called and assigned the duty that list of all the appeals be prepared in chronological order and all the appeals be clubbed with the oldest one, and be submitted for preliminary hearing before this Bench on 18.06.2021, irrespective of the previous dates given on the diary. This application is disposed of accordingly.

J. I.

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 commonality 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  
A. J. S.

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(Signature)

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

(Signature)

Attested  
(Signature)

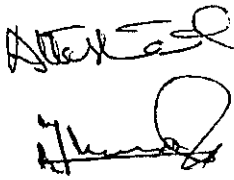
The proceedings for hearing will take-place in appeal in hand and shall be deemed to have been applied to clubbed appeals without repetition/replication.

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  
(Signature)  
SECRETARY  
PESHAWAR TRIBUNAL


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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

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K. N. S. S. S.  
 Khyber Pakhtunkhwa  
 Service Tribunal

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

REGISTERED  
 11/11/2019  
 FEDERAL SERVICE TRIBUNAL  
 ISLAMABAD

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7  
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:-

*Attested*  
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"(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

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ATTESTED

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*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.

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*[Handwritten signature]*

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,

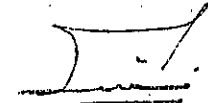
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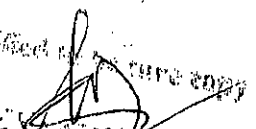
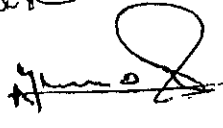
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already deducted should be reimbursed to the appellants forthwith. The instant judgment shall be considered as judgment *in rem*, therefore, the respondents should pay the said allowance to all similarly placed employees of the Education Department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

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

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

  
Attest  


Date of Presentation of Application 19/01/22  
Number of Words 2600  
Copying Fee 38/-  
Fees 42/-  
Name of Applicant \_\_\_\_\_  
Date of Completion of Copy 19/01/22  
Date of Delivery of Copy 19/01/22