

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 1568 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	21/01/2021	<p>The appeal presented today by Malik Ihtishamul Haq Khan Advocate may be entered in the Institution Register and put to the Learned Member for proper order please.</p> <p style="text-align: right;">REGISTRAR 21/1/21</p> <p>2-</p>	02.03.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>04/03/21</u></p> <p style="text-align: right;">MEMBER(J)</p> <p>Due to general strike on the call of Khyber Pakhtunkhwa Bar Counsel, learned counsel for appellant is not available today, therefore, the appeal is adjourned to 27.07.2021 on which date file to come up for preliminary arguments before S.B.</p> <p style="text-align: right;">(MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>

The appeal of Mst. Gulnaz received today i.e. on 15/01/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant. ✓
- 2- Approved file cover is not used. ✓

No. 102 /S.T,

Dt. 18/01 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Malik Ihtishamul Haq Adv. Pesh.

*Resubmitted after
compliance*

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**


Service Appeal No. ____-P/2021

Mst. Gulnaz Versus Government of KPK etc.

INDEX

S.No.	Description of Documents	Annexure	Pages
1.	Appeal alongwith Affidavit		1-4
2.	Addresses of Parties		5
3.	Copies of the CNIC alongwith Pay Rolls of the appellant	" <u>A</u> " to " <u>A/2</u> "	6-8
4.	Copy of the Judgment date 12.06.2020 passed in Service Appeal No.1731-P/2020 by this Hon'ble Tribunal	" <u>B</u> "	9-10
5.	Copy of the appellant's representation dated 10.10.2020	" <u>C</u> "	11-12
6.	Notice		13
7.	Wakalatnama		14

through Appellant


Malik Ihtisham-Ul-Haq Khan
Advocate High Court(s)
0331-8421678

Note: Spare copies will be provided after the institution on the direction of this Hon'ble Court.

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

1568

Service Appeal No. _____-P/2021

Mst. Gulnaz w/o Wali Khan
r/o House No.1, Mohallah Governor House Quarters,
Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1069

Dated 15/1/2021

.....Appellant.

Versus

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

.....Respondents.

Filed

Filed to-day 18/1/2021

Registrar

Re-submitted to -day
and filed.

Registrar

27/1/2021

2

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED ACTION OF RESPONDENTS BY ILLEGAL
AND UNLAWFUL DEDUCTION OF 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.**

PRAYER:

**ON ACCEPTANCE OF INSTANT APPEAL THE
RESPONDENTS MAY KINDLY BE RESTRAINED FROM
ILLEGAL DEDUCTION OF CONVEYANCE ALLOWANCE
DURING WINTER AND SUMMER VACATIONS AND BE
DIRECTED TO RELEASE ALL THE ALLOWANCES IN
LUMP SUM WITH BACK BENEFITS THAT WERE
DEDUCTED PREVIOUSLY. FURTHERMORE, ANY OTHER
REMEDY THAT THIS HON'BLE TRIBUNAL DEEMS
APPROPRIATE MAY KINDLY ALSO BE GRANTED.**

Respectfully Sheweth:

1. That the appellant is a bonafide residents of district Peshawar and Civil Servants of Education Department, Khyber Pakhtunkhwa serving at G.G.P.S Dinbahar No.1 in District Peshawar. Copies of the CNICS alongwith Pay Rolls of the appellant is enclosed as annexure "A" to "A/12".
2. That the appellant who has unblemishable teaching career and whose efficiency and sheer hard work has even been recognized by the high ups is the sole bread earner of her family.
3. That the respondents despite her efficiency and hard work and a Judgment dated 03.12.2018 passed by the Hon'ble Federal Service Tribunal in Appeal No.1888 (R) CS/2016 and Judgment dated 01.10.2019 passed in W.P No.3162-P/2019 by the Hon'ble Peshawar High Court, Peshawar in her favour is still subject to deduction of allowances during different vacation periods i.e. Winter and Summer etc.
4. That the afore-mentioned Judgments passed by the Apex Courts have already been complied with by this Hon'ble Tribunal vide its Judgment/Order dated 12.06.2020 passed in Service Appeal No.1731/2020 whereby this Hon'ble Tribunal has very categorically 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. Furthermore, it was declared that deduction of allowances from the employees' monthly salaries during vacations by the respondents is illegal, unconstitutional and ineffective upon the rights of the employees. Copy of the Judgment date 12.06.2020 passed in Service Appeal No.1731-P/2020 by this Hon'ble Tribunal is enclosed as annexure "B".

5. That the appellant who is the employee of Education Department went from pillar to post with the respondents for the release of her all allowances that were deducted illegally w.e.f 01.01.2011 coupled with a request for non deduction of any further vocational allowances but the respondents turned the appellant a deaf ear and rather asked her to approach this Hon'ble Tribunal through instant Service Appeal for grant of Order for similar treatment. Copy of the appellant's representation dated 10.10.2020 is enclosed as annexure "C".

Now the appellant feeling aggrieved from the impugned actions and in actions of the respondents approaches this Hon'ble Tribunal for the redressal of her grievance inter alia on the following:

GROUND:

- A. That the appellant has not been treated in accordance with law despite Judgments passed by this Hon'ble Tribunal and the superior Courts in her favour.
- B. That the deductions so made during the vacations i.e. Winter and Summer are totally illegal and against the law since there exist dictums of Superior Courts pertaining to the present matter.
- C. That the appellant has a prima facie case and balance of convenience tilts in her favour besides.
- D. That the afore-said Judgments passed by the Hon'ble Superior Courts are otherwise binding upon this Hon'ble Tribunal in light of Article 203GG of the Constitution of Islamic Republic of Pakistan, 1973.
- E. That non payment of the declared illegally deducted allowances and continuing the same practice illegally is in utter disregard of the provisions of the Constitution of Islamic Republic of Pakistan, 1973, principles of natural justice and the dictum laid down by the apex Courts by the respondents.
- F. That the respondents have in fact rendered themselves of gross defiance and contempt of the Judgments laid down by this Hon'ble Tribunal and

Judgments of the Superior Courts, for which they are liable to be punished accordingly.

4

G. That any other ground may be adduced with permission of this Hon'ble Tribunal at the time of arguments.

It is, therefore, prayed that on acceptance of instant Appeal Petition, this Hon'ble Tribunal may be pleased to

- i. Restrain the respondents from any conveyance allowance deductions during vacations(Winter and Summer).**
- ii. Direct the respondents to release all the outstanding deducted conveyance allowance amount w.e.f 01.01.2011.**
- iii. Any other relief which specifically not prayed for and which this Hon'ble Court deems fit and proper may kindly be granted.**

Appellant

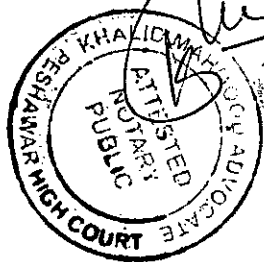
through



Malik Ihtisham-UI-Haq Khan
Advocate High Court(s)

AFFIDAVIT:

I, Mst. Gulnaz w/o Wali Khan R/o House No.1, Mohallah Governor House Quarters, Peshawar, do hereby affirm and declare on oath that the contents of the instant Appeal are true and correct to the best of my knowledge and belief.



Deponent

5

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Service Appeal No. _____-P/2021

Mst. Gulnaz

Versus

Government of KPK etc.

Addresses of Parties

APPELLANT:

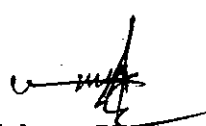
Mst. Gulnaz w/o Wali Khan
r/o House No.1, Mohallah Governor House Quarters,
Peshawar.

RESPONDENTS:

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

through

Appellant


Malik Ihtisham-UI-Haq Khan
Advocate High Court(s)

American A 6



PAKISTAN National Identity Card
ISLAMIC REPUBLIC OF PAKISTAN

Name
Gul Naz

Husband Name
Wali Khan

Gender Country of Stay
F Pakistan

Identity Number Date of Birth
17301-6650345-8 20.02.1978


Date of Issue Date of Expiry
26.12.2018 26.12.2028



Holder's Signature



17301-6650345-8



505521154751
135-78-458670

Registrar General of Pakistan

گشده کارڈ ملے پر قریبی لیڈ بکس میں ڈال دیں

ATTESTED

Amirul

AA

7
~~18~~

Peshawar Dist.

S#: 1

P Sec:002 Month:July 2015
PR7065 -Deputy District Officer (F
GOVERNMENT PRIMARY SCHOOL
NTN: 0
GPF #: EDU 045529
Old #: 99992278753

Pers #: 00045784 Buckle: 0
Name: GUL NAZ

CNIC No.99901015066
GPF Interest Applied
14 Vocational Temporary

PR7065 -68

PAYS AND ALLOWANCES:

0001-Basic Pay	19,030.00
1300-Medical Allowance	1,500.00
1897-Housing Subsidy Allowance	7,360.00
1948-Adhoc Allowance 2010@ 50%	3,290.00
2148-15% Adhoc Relief All-2013	2,206.00
2174-Adhoc Relief Allow-2014	1,471.00
2199-Adhoc Relief Allow @10%	1,903.00

36,760.00

Gross Pay and Allowances

DEDUCTIONS:

GPF Balance 180,568.00	Subrc:	1,372.00
3501-Benevolent Fund		180.00
3511-Addl Group Insurance		13.00
3604-Group Insurance		115.00
3990-Emp.Edu. Fund KPK		100.00

1,780.00

Total Deductions

34,980.00

D.O.B
01.05.1983

LFP Quota:
THE BANK OF KHYBER SECRETARIAT RR. PESH
3750-8

17 Years 05 Months 017 Days


ATTESTED

Peshawar Dist.

S#: 1

Annexure A/12

8

P Sec:002 Month:July 2016
PW6021 -DEPUTYDISTRICTOFFICER(FEMA
GOVERNMENT PRIMARY SCHOOL
NTN: 0
GPF #: EDU 045529
Old #: 99992278753

Pers #: 00045784 Buckle: 0
Name: GUL NAZ
PRIMARY SCHOOL HEAD TEACH
CNIC No.99901015066
GPF Interest Applied
14 Vocational Temporary

PW6021 -68

PAYS AND ALLOWANCES:

0001-Basic Pay	24,480.00
1300-Medical Allowance	1,500.00
1897-Housing Subsidy Allowance	7,360.00
1948-Adhoc Allowance 2010@ 50%	3,290.00
2148-15% Adhoc Relief All-2013	735.00
2199-Adhoc Relief Allow @10%	496.00
2211-Adhoc Relief All 2016 10%	2,448.00

Gross Pay and Allowances 40,309.00

DEDUCTIONS:

GPF Balance 94,026.00	Subrc:	1,775.00
6505-GPF Loan Principal Instal Bal: 124,416.00		3,888.00
3501-Benevolent Fund		180.00
3511-Addl Group Insurance		13.00
3604-Group Insurance		115.00
3990-Emp.Edu. Fund KPK		100.00

Total Deductions 6,071.00

34,238.00

D.O.B	LFP Quota:
01.05.1983	THE BANK OF KHYBER SECRETARIAT BR. PESH
18 Years 05 Months 017 Days	3750-8

ANNEXURE

Annexure - "B"



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1731 / 20

Diary No. 1296

Dated 13/3/2020

MST. Asmat Perveen, CT (BPS-15),
GGHS Bashir Abad 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 of (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 THE APPELLANT WITHIN THE STATUTORY PERIOD
OF NINETY DAYS.

PRAYER:

Filed to-day

Registrar

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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.

[Signature]
ATTESTED

12.06.2020

Counsel for the appellant present.

10

1. At the outset learned counsel referred to copy of order dated 11.11.2019 passed in Appeal No. 1452/2019 (copy available on record) and requested for disposal of instant appeal also in terms of the order.
2. It shall be useful for the purpose to reproduce hereunder the contents of referred order dated 11.11.2019:-

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

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

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

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

File be consigned to the record."

3. Having identical features instant appeal is disposed of accordingly. File be consigned to the record.

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

(Mian Muhammad)
Member

ANNOUNCED
12.06.2020

Director,
Department of E&SE,
Khyber Pakhtunkhwa,
Peshawar.

Annexure

C

1)

**DEPARTMENTAL APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ACTION OF THE DEPARTMENT
BY ILLEGAL AND UNLAWFUL DEDUCTION OF THE
CONVEYANCE ALLOWANCE OF THE APPELLANT DURING
WINTER AND SUMMER VACATIONS W.E.F 01.01.2011.**

PRAYER:

**ON ACCEPTANCE OF INSTANT APPEAL THE
CONVEYANCE ALLOWANCE DURING WINTER AND
SUMMER VACATIONS MAY NOT BE DEDUCTED AND ALL
THE DEDUCTED ALLOWANCES W.E.F 01.01.2011MAY
KINDLY BE RELEASED WITH IMMEDIATE EFFECT.**

Respectfully Sheweth:

1. That the appellant is a bonafide resident of district Peshawar and Civil Servant of Education Department, Khyber Pakhtunkhwa serving at G.G.P.S Dinbahar No.1, Peshawar in District Peshawar. Copies of the CNIC alongwith Pay Rolls of the appellant are enclosed as annexure "A" to "A/2".
2. That the appellant who has unblemishable teaching career and whose efficiency and sheer hard work has even been recognized by the high ups is the sole bread earner of her families.
3. That the appellant despite her efficiency and hard work and a Judgment dated 03.12.2018 passed by the Hon'ble Federal Service Tribunal in Appeal No.1888 (R) CS/2016 and Judgment dated 01.10.2019 passed in W.P No.3162-P/2019 by the Hon'ble Peshawar High Court, Peshawar in her favour has still not been returned the deducted amount in the garb of allowances during different vacation periods i.e. Winter and Summer etc.
4. That the afore-mentioned Judgments passed by the Apex Courts have already been complied with by the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar vide its Judgment/Order dated 12.06.2020 passed in Service Appeal No.1731/2020 whereby the Hon'ble Khyber Pakhtunkhwa Service Tribunal has very categorically not only

ATTESTED

[Signature]
to be the copy
Advocate

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. Furthermore, it was declared that deduction of allowances from the employees' monthly salaries during vacations by the respondents is illegal, unconstitutional and ineffective upon the rights of the employees. Copy of the Judgment date 12.06.2020 passed in Service Appeal No.1731-P/2020 by this Hon'ble Tribunal is enclosed as annexure "B".

12

5. That the appellant who is the employees of Education Department requests your esteemed office for the release of their all allowances that were deducted illegally w.e.f 01.01.2011

It is, therefore, prayed that on acceptance of instant Departmental Appeal all the outstanding deducted conveyance allowance amount w.e.f 01.01.2011 may kindly be released.

Appellant
through



Dated. 10.10.2020

Mst. Gulnaz
PST GGPS Dinbahar No.1,
Peshawar.

AFFIDAVIT:

I, Mst. Gulnaz w/o Wali Khan R/o House No.1, Mohallah Governor House Quarters, Peshawar, do hereby affirm and declare on oath that the contents of the instant Appeal are true and correct to the best of my knowledge and belief.


DEPONENT

ATTACHED
to be copy
Advocate

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. ____-P/2021

Mst. Gulnaz Versus Government of KPK etc.

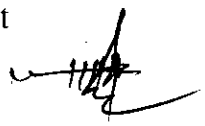
RESPONDENTS:

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

NOTICE

Please take notice that the undersigned has filed the subject Appeal against the impugned deductions of Conveyance allowances deducted w.e.f 01.01.2011 till date.

through Appellant



Malik Ihtisham-Ul-Haq Khan
Advocate High Court(s)

بعدالت

سے پچھلے سہولت سروسز ریڈیو ٹیلی ویژن کے بارے میں

2 جناب
بینام گورنمنٹ

صاحبانہ

موزخہ
مقدمہ
دعویٰ
بیم

باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی اور کل کارروائی متعلقہ
 آج کے مقام پر یہ ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راجسٹی نامہ کرنے کے وقت تفریق فیصلہ برحلقہ دینے کے جواب دہی اور اقبال دعویٰ اور
 باسورت ڈگری کرنے کے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائع پر دستخط کرنے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے کے اپیل نمائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا سا لٹ
 پر واخذہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا اذکالت نامہ لکھ دیا کہ سند ہے۔

Handwritten signature/initials on the right margin.

المرقوم کا
 ماہ جنوری 2001

واہ العباد

ATTESTED
 Handwritten signature

Accepted by
 Handwritten signature

Sabla Naz Durrani