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se No	1608/	/2020	•	

.No.	Date of order	Order or other proceedings with signature of judge
	proceedings	p
1	2	3
1-	31/12/2020	The appeal presented today by Mr. Munfat Ali Yousa
1.	31/12/2020	Advocate may be entered in the Institution Register and put to the Lear
-		Member for proper order please.
1		
		REGISTRAR
		This case is entrusted to S. Bench for preliminary hearing to be
		up there on $04-03-21$
,		MEMBER(J)
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	4.02.2024	
U'	4.03.2021	Learned Member (J) is under transfer, therefore the case is
	*	adjourned to 29.07.2021 before S.B.
		READER
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

APPEAL NO.		/2020
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FAZLI MAULA VS

EDUCATION DEPTT:

INDEX

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5.	Service Tribunal Judgment	E	8-9
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APPELLANT

THROUGH:

M

MUNFAT ALI YOUSAFZAI

ADVOCATE

CELL NO. 0344-9213367

Note: Sir,

Spare copies will be submitted After submission of the case.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

APPEAL NO. 1608 7/2020

Khyber Pakhtukhwa Service Tribunal

Diary No. 174/9

MR. FAZLI MAULA, PST (BPS-12) GPS IQBAL ABAD CHARSADDA Dated 3/1/2/2020

APPELLAN

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

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 PST (BPS-12) 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 working in BPS-1 to 15 were enhance/revised while employees from BPS-16 to 19 have been treated

- 5. That some of teachers of different pay scale approached to this august Tribunal in different service appeals which allowed by this august tribunal vide its Judgment No 1452/2019 titled Maqsad Hayat versus Education Department Dated 11-11-2019...... E.
- 6. That the appellant also prayed to be treated through the principals of consistency for allowing such relief which was granted in appeal No. 1452/2019 titled Maqsad Hayat versus Education Department in Judgement Dated 11.11.2019.
- 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 amongst the others.

GROUNDS:

- A- That the action and inaction of the respondents regarding deduction of conveyance allowance for vacations period/months is illegal, against the law, facts, norms of natural justice.
- B- That the appellant have not been treated by the respondent Department in accordance with law and rules on the subject noted above and as 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 duly conferred by the Constitution and is liable to be declared as null and void.

- D- That there is clear difference between leave and vacation as leave is applied by the Civil Servant in light 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.
- E-That the Government Servants Revised Leave Rules, 1981 clearly explain that the civil servants who avail the vacations are allowed only one leave in a month whereas, the other civil servants may avail 04 days leave in a calendar months and the same are credited to his account and in this way he may avail 48 days earned leave with full pay, whereas the Government servants to avail vacation such as appellant is allowed one day leave in a month and twelve (12) days in a year and earned leave for twelve days in a year are credited to his account and there is no question of deduction of conveyance allowance for vacation period, the respondents while making the deduction of conveyance allowance lost sight of this legal aspect and illegally and without any authority started the recovery and deduction of conveyance allowance from appellant.
- F- That as the act of the respondents is illegal, unconstitutional, without any legal authority and not only discriminatory but is also the result of malafide on the part of respondents.
- G- That appellant has the vested right of equal treatment before law and the act of the respondents to deprive the petitioners from the conveyance/allowance is unconstitutional and clear violation of fundamental rights.
- H- That according to Government Servants Revised leave Rules, 1981 vacations are holidays and not leave of any kind, therefore, the deduction of conveyance allowance in vacations is against the law and rules.
- 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 earning of individuals including persons in the services of the federation, therefore in light of the said Article the appellant fully entitle for the grant of conveyance allowance during vacations.
 - J- That the petitioners 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 under the golden principals of consistency.

THROUGH:

MUNFAT ALI YOUSAFZAI ADVOCATE

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGUALTION 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.

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 (FM)
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/-

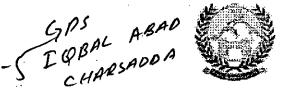
2. Conveyance Allowance at the above rates per month shall be admissible to those BPS-17 18 and 19 officers who have not been sanctioned official vehicle.

Your Faithfully

(Sahibzada Saeed Ahmad) Secretary Finance

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

Dist. Govt. NWFP-Provincial District Accounts Office Charsadda Monthly Salary Statement (June-2018)



Personal Information of Mr FAZLI MAULA d/w/s of SATAR KHAN

Personnel Number: 00653824

CNIC: 1710153569455

Date of Birth: 13.06.1977

Entry into Govt. Service: 05.05.2011

NTN:

Length of Service: 07 Years 01 Months 027 Days

Employment Category: Vocational Temporary

Designation: PRIMARY SCHOOL TEACHER

80001042-DISTRICT GOVERNMENT KHYBE

DDO Code: CA6012-DEPUTY DISTRICT OFFICER (MALE) PRIM EDUCATION CHARSADDA (REGULAR)

Cash Center: 20

GPF A/C No: V.15CP.P.131

Interest Applied: Yes

GPF Section: 001

GPF Balance:

105,188.00

Vendor Number: -

Pay and Allowances:

Payroll Section: 001

Pay scale: BPS For - 2017

Pay Scale Type: Civii

BPS: 12

Pay Stage: 5

	Wage type	Amount		Wage type	Amount
0001	Basic Pay	18,120.00	1000	House Rent Allowance	1,307.00
1300	Medical Allowance	1,500.00	2148	15% Adhoc Relief All-2013	400.00
2199	Adhoc Relief Allow @10%	275.00		Adhoc Relief All 2016 10%	1,434.00
2224	Adhoc Relief All 2017 10%	1,812.00			0.00

Deductions - General

Wage type	Amount	mount Wage type		Amou	nt
3012 GPF Subscription - Rs222	-2,220.00	3501	Benevolent Fund	-600.0	0
3990 Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp:	-1.052.0	

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	80,000.00	-5,000.00	30,000.00

Deductions - Income Tax

Payable:

0.00

Recovered till June-2018:

0.00

Exempted: 0.00

Recoverable:

.0.00

Gross Pay (Rs.):

24,848.00

Deductions: (Rs.):

-8,997.00

Net Pay: (Rs.):

15,851.00

Payee Name: FAZLI MAULA

Account Number: 02177900510101

Bank Details: HABIB BANK LIMITED, 220217 TEHSIL BAZAR, CHARSADDA. TEHSIL BAZAR, CHARSADDA.,

CHARSADDA

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: GF

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: fazal1361977@gmail.com

Dist. Govt. KP-Provincial District Accounts Office Charsadda Monthly Salary Statement (June-2020)





Personal Information of Mr FAZLI MAULA d/w/s of SATAR KHAN

Personnel Number: 00653824

CNIC: 1710153569455

Date of Birth: 13.06.1977

Entry into Govt. Service: 05.05.2011

NTN:

Length of Service: 09 Years 01 Months 027 Days

Employment Category: Vocational Temporary

Designation: SENIOR PRIMARY SCHOOL TEA

80001042-DISTRICT GOVERNMENT KHYBE

DDO Code: CA6012-DEPUTY DISTRICT OFFICER (MALE) PRIM EDUCATION CHARSADDA (REGULAR)

Payroll Section: 001

GPF Section: 001

Cash Center: 04

GPF A/C No: V.15CP.P.131

Interest Applied: Yes

GPF Balance:

226,517.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 14

Pay Stage: 6

Wage type		Amount	ount Wage type		Amount	
0001	Basic Pay	22,200.00	1000	House Rent Allowance	2,214.00	
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00	
2148	15% Adhoc Relief All-2013	400.00	2199	Adhoc Relief Allow @10%	275.00	
2211	Adhoc Relief All 2016 10%	1,434.00	2224	Adhoc Relief All 2017 10%	2,220.00	
2247	Adhoc Relief All 2018 10%	2,220.00	2264	Adhoc Relief All 2019 10%	2,220.00	

Deductions - General

Wage type		Amount	Amount Wage type		Amount
3014	GPF Subscription	-2,620.00	3501 Bene	evolent Fund	-600.00
3914	Education (ROP)	-2,000.00	3990 Emp	o.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-600.00	4200 Prof	fessional Tax	-1,200.00

Deductions - Loans and Advances

	<u> </u>			
Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable:

0.00

Recovered till JUN-2020:

0.00

Exempted: 0.00

Recoverable:

0.00

Gross Pay (Rs.):

37,539.00

Deductions: (Rs.):

-7,145.00

Net Pay: (Rs.):

30,394.00

Payee Name: FAZLI MAULA

Account Number: 02177900510101

Bank Details: HABIB BANK LIMITED, 220217 TEHSIL BAZAR, CHARSADDA. TEHSIL BAZAR, CHARSADDA.,

CHARSADDA

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

* Errors & omissions excepted

City: GF

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: fazal1361977@gmail.com

NY

Dist. Govt. KP-Provincial District Accounts Office Chargadda Monthly Salary Statement (June 2020)



Personal Information of Mr FAZEL MACLA divide of SATAR KILAN

Per annel Machbert 00053824

CNIC 1710153569453

Entry into Govt. Service: 95 65:2011

MIZ Laugh of Service (64 Years 01 Months 027 Days

226,517.00

Furpleyment Category: Vocational Temporary >

Dang r a. SENIOR PRÍMARY SCHOOL TEA

DITO Folio CA6012-DEPUTY DISTRICT OFFICER (MALE) PRIM EDUCATION CHARSADDA (REGULAR)

Payroll Section (b)1

Date of Birth 13,06,1977

GPF Section, 001

GPF AIC Not VISCPIP 131

Cash Center, 04 interest Applied Yes

Vender Number. -

Pay Scale Type, Civ.l.

, GPF Brigneet

80001042-DISTRICT GOVERNMENT KINTEL

Pay scale: BPS For - 2017 Pay and Allowances:

Jisuom/.	Wage type	mount	Wage type
2,214,68	DOD House Rent Allowance	22,2(4),00	ઇન્ડો નાયાદ Pay
1,500 Op	300 Medical Alloy ance	2,356.00	1210 Contry Allowance 2005
275 00	199 Adhoe Relief Ailus - 10%	400.00	2145 15% Adbur Reflet // 11/2015
2 220 00	224 Adhat Rahef All 2017 10%		2211 Adino Relict AH 2016 (0%)
2,720,00	254 Adnoc Refler All 2019 10".	2,220,00	2247 Adhne Relief All 2018 10%

Bethe crious - General

Impount.	Nage (Tpe		Amerint	Wage type .
00.00n-	Sencyolent Fund	3501	-2.620 bo	(014 GPF Subscription
-125.99	Pap.Edu Fund KPK	3990	-2.690330	3914 Thireston (R(1P)
-1.266.60	Professional Tex	4200	-600 ku	Post R. Benetits & Death Comp.

Deductions - Loans and Advances

TEO, I	Desc	iptlen	Principal anio	want De	Deduction	Balance
Ocdaetinas	- income Tax		•			•
Puy.thle	Q.00 Recove	rd all IUN-2020:	0.00 Exem	00.0 ilang m	Recoverat	ile nu
Gress Pay (Rs.): 37.539.00	Bedoctions: (Rv.):	-7,145.00	Vet Pay: f	मुष्ट धुन्धाः	94.00
Payer Nam	: FAZLI MĄTRA	:				
	mber; 0217796651 0 101					•
icoll Irail	s habib bunk i imij	ТД, 220217 ТИНБИ, БА	\ZAR ₄ CHARSADL	PDA, TLHSIL BA	BAZAR, CHARS	ADD4_
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13. 11. 17.

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

10-7

Subject:

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

Respected Sir,

With due respect it is stated that I am the employee of your good self Department and is serving as PST (BPS-12) quite efficiency and up to the entire satisfaction of the superiors. It is stated for kind information that Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. Later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees working in BPS-I to 15 were enhance/revised while employees from BPS-15 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance. Respected Sir, I was receiving the conveyance allowance as admissible under the law and rules but the concerned authority without any valid and justifiable reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period. One of the employee of Education Department in Islamabad filed service appeal No.1888 (R)CS/2016 before the Federal Service Tribunal, Islamabad regarding conveyance allowance which was accepted by the Honorable Service Tribunal vide its judgment dated 03.12.2018. That the august K.P.K service tribunal also allowed the restoration of the conveyance allowance in its judgment dated 11.11.2019 in appeal No 1452/2019 titled Magsad Hayat versus Education Department. Copy attached. That I also the similar employee of Education Department and under the principle of consistency I am also entitled for the same treatment meted out in the above mentioned service appeal but the concerned authority is not willing to issue/grant the same conveyance allowance which is granting to other employees. Copy attached. I am feeling aggrieved from the action of the concerned authority regarding deduction of conveyance allowance in vacations period/months preferred this Departmental appeal before your good self.

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

Dated: 17/09/2020 -

Your Obediently

FAZLI MAULA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR APPEAL NO. 1452 /2019 Mr. Maqsad Hayat, SCT (BPS-16), GHS Masho Gagar, Peshawar..... **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 UDNER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE THE APPELLANT DURING WINTER VACATIONS AND AGAINST NO ACTION TAKEN ON DEPARTMENTAL APPEAL OF APPELLANT WITHIN 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 Phedito-day previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in the favor of the appellant.

24/10/19 R/SHEWETH: ON 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 ion vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

Appeal No. 1452/2019 Markad Hayat is Got 172

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

াগ্য reasonable time.

File be consigned to the record.

Poshawata

Cariffet !

ANNOUNCED

11.11.2019

KI: 1.42

Chairman

<u>VAKALATNAMA</u>

FORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

	OF 2020
	(APPELLANT)
FAZLI MAULA	(PLAINTIFF)
	(PETITIONER)
VERSUS	
	(RESPONDENT)
Education Department	(DEFENDANT)
I/We FAZLI MAULA constitute MUNFAT ALI YOUSAFZAI, Advoca compromise, withdraw or refer to arb Counsel/Advocate in the above noted matter, and with the authority to engage/appoint any cost. I/we authorize the said Advocate to deposibehalf all sums and amounts payable or deposinoted matter.	itration for me/us as my/our without any liability for his default other Advocate Counsel on my/our sit, withdraw and receive on my/our
Dated/2020	•
	CLIENT

<u>ADVOCATE</u>