

06.07.2020

Counsel for the appellant present.

1. At the outset learned counsel referred to copy of order dated 11.11.2019 passed in Appeal No. 1452/2019 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. اس (ف) س

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.

3. As a disgruntled, the appellant appears to be placed similar to a number of petitioners in Writ Petition No.3162-P/2019 and other connected matters decided by the Hon'ble Peshawar High Court. Under the principle of consistency, it would, therefore, be appropriate to dispose of the appeal in hand in accordance with the order dated 11.11.2019 passed in Service Appeal No.1452. Disposed of similarly. File be consigned to the record room.

ANNOUNCED
06.07.2020

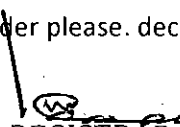


Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 759 /2020

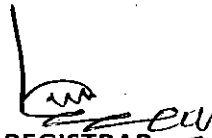
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/01/2020	<p>The appeal of Mr. Abdul Jabbar resubmitted today by Mr. Amir Khan Chamkani Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;"> REGISTRAR 31/1/2020</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/03/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	26.03.2020	<p>Due to public holiday on account of COVID-19, the case is adjourned to 06.07.2020 for the same. To come up for the same as before S.B.</p> <p style="text-align: right;"> Reader</p>

The appeal of Mr. Abdul Jabbar C.T Teacher GHSS Chamkani Peshawar received today i.e. on 22.01.2020 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 is unsigned which may be got signed.
- 2- Annexures of the appeal may be attested.

No. 223 /S.T,

Dt. 22-01 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Amir Khan Chamkani Adv. Pesh.

*Appeal is completed
and re-submitted.*

31/Jan/2020

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

SERVICE APPEAL NO. 759 /2020

ABDUL JABBAR

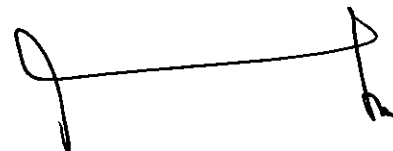
VERSUS

CHIEF SECRETARY KPK & OTHERS

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6	COPY OF DEPARTMENTAL APPEAL	"C"	15
7	COPY OF APPEAL NUMBERED 1454/2019 ALONG WITH JUDGEMENT DATED 11-11-2019	"D"	16-19
8	WAKALATNAMA		IN ORIGINAL

THROUGH,



BARRISTER AMIR KHAN CHAMKANI

MOBILE NO. 0345-1166999
HIDAYAT ULLAH KHAN CHAMKANI LAW CHAMBER
OFFICE # B33, B34 GOVT COLLEGE CHOWK, PESHAWAR

1

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

SERVICE APPEAL NO. 759/2020


ABDUL JABBAR S/O MUHAMMAD IBRAHEEM
R/O MUHALLAH ZAREEN ABAD CHAMKANI PESHAWAR
CERTIFIED TEACHER GHSS CHAMKANI

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 669
Dated 22/1/2020

APPELLANT

VERSUS

1. **CHIEF SECRETARY KHYBER PAKHTUNKHWA**
SAHIBZADA ABDUL QAYUM ROAD, CIVIL SECRETARIAT
PESHAWAR, KHYBER PAKHTUNKHWA
2. **SECRETARY ELEMENTARY & SECONDARY EDUCATION KPK**
SAHIBZADA ABDUL QAYUM ROAD, CIVIL SECRETARIAT
PESHAWAR KHYBER PAKHTUNKHWA
3. **DIRECTOR ELEMENTARY & SECONDARY EDUCATION KPK**
MAIN GRAND TRUNK ROAD, NEAR QILA BALA HISAR
PESHAWAR KHYBER PAKHTUNKHWA
4. **SECRETARY FINANCE DEPARTMENT KPK**
SAHIBZADA ABDUL QAYUM ROAD, CIVIL SECRETARIAT
PESHAWAR, KHYBER PAKHTUNKHWA
5. **ACCOUNTANT GENERAL KPK**
FORT ROAD PESHAWAR CANTONMENT
KHYBER PAKHTUNKHWA
6. **CHIEF MINISTER KHYBER PAKHTUNKHWA**
THROUGH HIS PRINCIPLE SECRETARY
SAHIBZADA ABDUL QAYYUM ROAD
CHIEF MINISTER HOUSE
PESHAWAR KPK

Filed to-day

Registrar
22/01/2020

Re-submitted to -day
and filed.

RESPONDENTS

Registrar

SERVICE APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974 KHYBER PAKHTUNKHWA AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS, BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANTS DURING WINTERS & SUMMERS VACATIONS & INACTION OF THE RESPONDENTS ON THE DEPARTMENTAL APPEAL OF THE APPELLANTS, DESPITE LAPSE OF THE STATUTORY TIME FRAME

RESPECTFULLY SHEWETH;

The Appellant most earnestly seeks permission of this Learned Tribunal to submit as under;

BRIEF FACTS

- 1. That the Appellant is a civil servant in terms of the civil servants act 1974 and is currently working against the post stipulated in the subject appeal.
- 2. That it is important to note that the Appellant has been working with utmost zeal and vigour to the complete satisfaction of its competent authority; suffice it to say that the Appellant has had exceptional career record.
- 3. That conveyance allowance was made admissible to all civil servants of the province through a notification numbered FD (PRC)1-1/2011 dated 14-07-2011 which was further enhanced to the extent of BPS 1 to BPS 15 employees vide notification dated 20-12-2012.

Copy of Notification Dated 14-07-2011 is Annex A
Copy of Notification Dated 20-12-2012 is Annex A/1

- 4. That in pursuance of the ibid notifications the Appellant was getting conveyance allowance, however to the utmost shock and dismay of the Appellant conveyance allowance for the period of vacations both summers and winters was illegally held/ deducted from pays of the Appellant.

Salary Slips of Ordinary & Vacation Months is Annex B

- 5. That it is pertinent to note here that the aforementioned act of the Respondents vis-a-vis deduction of conveyance allowance is not only illegal but also discriminatory as employees of other government departments are getting the ibid allowance even in months of vacation, and rightly so.
- 6. That many requests were made by the Appellant to have the anomaly rectified but off no avail as the genuine requests of the Appellant fell on deaf ears.

Copy of Departmental Appeal is Annex C

- 7. That feeling aggrieved from the Impugned Action of the Respondents by illegally & unlawfully deducting Conveyance Allowance of the Appellant during winters & summers vacations & inaction of the Respondents on the Departmental Appeal of the Appellants, despite lapse of the Statutory Time Frame the Appellant approaches this learned tribunal on the following grounds inter alia:

GROUNDS

- A. That the actions of the Respondents in deducting/withholding conveyance allowance for the vacation months are perverse, arbitrary and illegal. Moreover the said action is also tantamount to discrimination.

- B. That the fundamental rights of the Appellant as enshrined in the constitution as well as those set out in terms and conditions of his employment have been blatantly infringed by the Respondents.
- C. That the actions of the Respondents have in effect amalgamated two distinct concepts of leave and vacation; since the former is governed by the Government Servants Revised Leave Rules of 1981 whilst the latter is the prerogative of the government as and when promulgated by it. As such the Appellant is fully entitled for the grant of conveyance allowance during the vacation period as the same is distinguishable from leave.
- D. That the ibid 1981 Rules, clearly provide that in vacation departments such as that off the Appellants, there is an allowance of one day leave per calendar month, compared to the four days leave per calendar month of the non-vacation departments. In deduction of the conveyance allowance, the Respondents have lost sight such a cardinal legal aspect as such the deduction of conveyance allowance is nothing short of a blatant illegality.
- E. That in any case the learned Federal Service Tribunal in Appeal Numbered 1888(R)CS/2016 decided on 03-12-2018 has already held explicitly that the conveyance allowance cannot be deducted in the months of vacation as such the Appellant, too is entitled to the same relief.
- F. That moreover this Honourable tribunal too has held that the deduction of conveyance allowance in the months of vacation as illegal and without any justification.

Copy of Appeal Numbered 1454/2019 Along With Judgement Dated 11-11-2019 is Annex D

- G. That through their actions and/or omissions the Respondents have in effect blatantly violated Article 38(e) of the Constitution.
- H. That the Appellant is entitled to non-discriminatory and equal treatment as such it is in the interests of justice to allow the subject service appeal.
- I. That any other ground may be raised at the time of arguments.

PRAYER

It is, therefore, submitted with profound respect that this Honourable Tribunal may very graciously be pleased to;

- I. **Direct** the Respondents to release to the Appellant all conveyance allowances for the vacation months from the dates of its admissibility i.e. 14-07-2011 & 20-12-2012
- II. **Declare** that the deduction/withholding of the conveyance allowance in vacation months to be illegal, arbitrary and ultra vires of the constitution.

III. **Refrain** the Respondents from deduction/withholding of the conveyance allowance in future.

IV. **Grant** any other relief as deemed appropriate by this Learned Tribunal


APPELLANT

THROUGH,



BARRISTER AMIR KHAN CHAMKANI

DATED:17-01-2020

VERIFICATION

Verified on oath on this 22 Day of January Year 2020, that the contents of this service appeal including all paragraphs, facts and grounds, prayer and all other figures mentioned therein are correct to our knowledge and beliefs and nothing has been concealed from this Honourable Tribunal either intentionally or otherwise.

DEPONENT



ABDUL JABBAR
17301-1573650-3



IDENTIFIED BY COUNSEL

ATTESTED
IRFANULLAH ADVOCATE
NOTARY PUBLIC
22/1/2020

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

SERVICE APPEAL NO. _____/2020

ABDUL JABBAR

VERSUS

CHIEF SECRETARY KPK & OTHERS

AFFIDAVIT


I, **Abdul Jabbar** S/o Muhammad Ibraheem R/o Village & Post Office Chamkani Muhallah Zareen Abad Tehsil & District Peshawar do hereby solemnly swear and affirm on oath that the contents of this service appeal are true and correct to the best of my knowledge and nothing has been concealed from this honourable court either intentionally or otherwise.

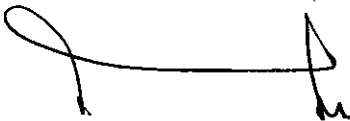
DEPONENT


ABDUL JABBAR

CNIC NUMBER:17301-1573650-3

ATTESTED
IRFAN ULLAH ADVOCATE
NOTARY PUBLIC





IDENTIFIED BY COUNSEL

Annexure : A

A-35



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (PRC) 1-1/2011
Gated Peshawar the: 14th July, 2011

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 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.

Subject: REVISION OF BASIC PAY SCALES, ALLOWANCES AND PENSION OF CIVIL SERVANTS OF THE PROVINCIAL GOVERNMENT.

Dear Sir,

The Governor, Khyber Pakhtunkhwa Province has been pleased to sanction, w.o.f. 01-07-2011 and until further orders; revision of Basic Pay Scales, Allowances and Pension for the Civil Servants of the Provincial Government, detailed as follows:-

PART-I (PAY)

2. Revision of Basic Pay Scales:-
Basic Pay Scales - 2011, as contained in the Annexure to this letter, will replace Basic Pay Scales - 2008, with effect from 01-07-2011.
3. Fixation of Pay of the Existing Employees (w.o.f. 01-07-2011):-
i. Basic pay of an employee who was in service on 30-06-2011, will be fixed in Basic Pay Scale - 2011 on point-to-point basis, i.e. at the stage corresponding to that occupied by him / her above the minimum of Basic Pay Scales - 2008.
ii. In case of Personal Pay being drawn by an employee as part of his / her basic pay beyond the maximum of his / her pay scale as on 30-06-2011, he / she shall continue to draw such pay in the Basic Pay Scales - 2011 at revised rates.
4. Annual Increment:-
Annual Increment will continue to be admissible; subject to the existing conditions, on 1st of December each year.

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PART-II (ALLOWANCES)

5. **Ad-hoc Relief Allowances granted upto 01-07-2009:-**

The following Ad-hoc Relief Allowances sanctioned upto 01-07-2009 will be discontinued with effect from 01-07-2011.

S.No.	Name of Allowance	Sanctioned vide Letter No. & Date	Admissible Rate
i.	Special Additional Allowance	FD (PRC) 1-1/99 Dated 28-07-99	BPS 1-16 25% BPS 17-22 20%
ii.	Special Relief Allowance -	FD (PRC) 1-1/2003 Dated 09-07-2003	15% of the basic pay for all employees
iii.	Ad-hoc Relief	FD (PRC) 1-1/2004 dated 17-07-2004	15% of the basic pay for all employees
iv.	Dearness Allowance	FD (PRC) 1-1/2006 dated 5-07-2006	15% of the basic pay for all employees
v.	Ad-hoc Relief Allowance	FD (PRC) 1-1/2008 dated 25-07-2009	BPS 1-16 20% BPS 17-22 15%

6. **Ad-hoc Allowance - 2010 (if admissible):-**

- i. Ad-hoc Allowance - 2010 allowed @ 50% of the running basic pay in Basic Pay Scales - 2008, where admissible to Civil Servants, will be frozen at the level of its admissibility as on 30-06-2011.
- ii. All new entrants will be allowed Ad-hoc Allowance - 2010, if admissible to them, @ 50% of the minimum of relevant Basic Pay Scales - 2008 on notional basis, the amount of which will remain frozen at the same level until further orders.

Ad-hoc Relief Allowance - 2011:-

- i. An Ad-hoc Relief Allowance - 2011, @ 15% of the basic pay, as admissible on 30-06-2011 in Basic Pay Scales - 2008, is allowed, with effect from 01-07-2011, to:-
 - (a) all the Civil Servants of the Provincial Government,
 - (b) contingent paid staff, and
 - (c) contract employees employed against civil posts in Basic Pay Scales on standard terms and conditions of contract appointment.
 The amount of Ad-hoc Relief Allowance - 2011, as admissible on 01-07-2011, will remain frozen at the same level until further orders.
- ii. With effect from 01-07-2011 and onwards, all new entrants in the three categories mentioned in Para-7(i) above, will also be allowed Ad-hoc Relief Allowance - 2011 @ 15% of the minimum of the relevant Basic Pay Scales - 2008 on notional basis, the amount of which will remain frozen at the same level until further orders.
- iii. The term "Basic Pay" will also include the amount of Personal Pay granted on account of annual increment(s) beyond the maximum of the existing pay scales.
- iv. **The Ad-hoc Relief Allowance**
 - a) will be admissible during leave, and entire period of LPR,
 - b) will not be treated as part of emoluments for the purposes of calculation of Pension / Gratuity and recovery of House Rent.
 - c) will not be admissible to the employees during the tenure of their posting on deputation abroad,
 - d) will be admissible to the employees on their repatriation from posting / deputation abroad at the rate and amount which

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would have been admissible to them had they not been posted abroad,

e) will be admissible during the period of suspension.

8. Medical Allowance:-

i. Medical Allowance admissible to Civil Servants in BPS-16 to BPS-22 @ 15% of the basic pay, as admissible to them on 30-06-2011, in Basic Pay Scales - 2008, will continue to be admissible but will remain frozen at the level of its admissibility as on 30-06-2011.

ii. With effect from 01-07-2011 and onwards, all new entrants in civil service in BPS-16 to BPS-22 will also be allowed Medical Allowance @ 15% of the minimum of relevant Basic Pay Scales - 2008 on notional basis, the amount of which will remain frozen at the same level until further orders.

9. Special Pays and Allowances:-

All Special Pays, Special Allowances or Allowances admissible as percentage of pay (excluding those which are capped by maximum limits), including House Rent Allowance, Risk Allowance, Judicial Allowance, Incentive Allowance and Allowance/Special Allowances equal to one month Basic Pay/ one-and-half of the initial pay, granted to Provincial Government employees, irrespective of his/her posting in any Department, including civil employees in BPS 1-22 of Judiciary, will stand frozen at the level of its admissibility as on 30-06-2011.

10. Conveyance Allowance:-

i. Conveyance Allowance will be admissible to all civil servants in BPS-1 to 15 on revised rates as under:-

BPS	Existing	Revised (Rs. P.M.)
BPS 1-4	Rs.680/- p.m.	Rs.850/- p.m.
BPS 5-10	Rs.920/- p.m.	Rs.1150/- p.m.
BPS 11-15	Rs.1350/- p.m.	Rs.1700/- p.m.

ii. All Civil Servants of the Provincial Government (excluding those who are allowed monetized value of Transport or who avail Transport Facility) will be allowed Conveyance Allowance at the prescribed rates irrespective of their place / station of duty.

11. Miscellaneous Allowances:-

Following Allowances will be admissible at revised rates, as noted against each:-

S. No.	Name of Allowance	Existing Rates	Revised Rates
i.	Integrated Allowance for Ni/Qasid, Qasid & Dafitars	Rs.150/- p.m.	Rs.300/- p.m.
ii.	Washing Allowance for Farash, Chowkidar, Sweeper, Sweepress, Dispatch Rider, Mechanic, Cleaner, Driver, Mail, Behlshil, Head Mail, Sweeper Jamadar	Rs.30/- p.m.	Rs.100/- p.m.
iii.	Dress Allowance for Farash, Chowkidar, Sweeper, Sweepress, Dispatch Rider, Mechanic, Cleaner, Mail, Behlshil, Head Mail, Sweeper Jamadar	Rs.25/- p.m. Rs.35/- p.m. Rs.40/- p.m.	Rs.100/- p.m.
iv.	Uniform Allowance for Nurses	Rs.300/- p.m.	R.600/- p.m.

Attested [Signature] ATTESTED

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Pension

12. All the existing Civil Pensioners of the Khyber Pakhtunkhwa Government are allowed an increase in their pension at the following rates w.e.f 1st July, 2011 and until further orders:-

S.No.	Category of Pension	Increase Allowed
i.	Pensioners who retired on or after 01/7/2002	@15% of the net pension
ii.	Pensioners who retired on or before 30/6/2002	@20% of the net pension

13. For the purpose of admissibility of increase in pension, as aforesaid, the term "Net Pension" means "Pension being drawn" minus "Medical Allowance", as admissible.

14. Increases in pension allowed vide Para-3 of Finance Department letter No.FD(SOSR-II)4-111/2010 dated 15/7/2010 will not be allowed to civil servants who retired on, or would retire after, 01/7/2011, and who opt to draw pension under the Scheme of Basic Pay Scales-2011.

15. However, 15% increases in pension allowed vide Para-2 of Finance Department letter No.FD(SOSR-II)4-111/2010 dated 13/7/2010 will continue to be admissible to those civil servants who retired on, or would retire after, 01/7/2011, and who opt to draw pension under the Scheme of Basic Pay Scales-2011.

16. 15% increase in pension, as mentioned at Para-12/S.No:(i) above, will also be admissible to civil servants who retired on, or would retire after, 01/7/2011.

17. Increase in pension, as mentioned in Para-12 above, will also be admissible on family pension granted under the Pension-cum-Gratuity Scheme 1954, Liberalized Pension Rules, 1977, on pension sanctioned under the Provincial Civil Servants Pension Rules (Extra Ordinary Pension) as well as on Compassionate Allowance allowed under CSR-353.

18. If the gross pension sanctioned by the Provincial Government is shared with any Government in accordance with the rules laid down in part-IV of Appendix III to the Accounts Code, Volume-I, the amount of increase in pension shall be apportioned between this Provincial Government and the other Government concerned on proportionate basis.

19. Increase in pension, mentioned in Para-12 above, will not be admissible on Special Additional Pension allowed in lieu of pre-retirement Orderly Allowance.

20. Increase in pension, mentioned in Para-12 above, will not be admissible during the period of re-employment of a pensioner, but the increase will be allowed after the termination of the re-employment contract. However, the increase in pension admissible to the pensioners of the Provincial Government before their re-employment on contract basis will continue to be admissible to

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them, provided that they are not in receipt of any increases allowed as allowances with their pay in lieu of increases in pension.

21. The benefit of increase in pension sanctioned through this letter will also be admissible to those Civil Pensioners of the Provincial Government who are residing abroad (other than those residing in India and Bangladesh) who retired on or after 15/8/1947, and are not entitled to, or are not in receipt of pension increase under the British Government's Pension (increase) Acts. The payment shall be made at the applicable rate of exchange.

22. Medical Allowance for the Pensioners.

- (i) Medical Allowance admissible to the existing retired Civil Servants in BPS-1 to BPS-15 and in BPS-16 to BPS-22 @ 25% and @ 20% of their net pension respectively, will continue to be admissible, but the amount will remain frozen at the level of its admissibility as on 30/6/2011, and until further orders.
- (ii) All Civil Servants in BPS-1 to BPS-15 and in BPS-16 to BPS-22, who retired on, or will retire after, 01/7/2011, will be allowed Medical Allowance @ 25% and @ 20% of their net pension respectively, which amount will remain frozen at the same level, until further orders.

23. Option.

- (i) The Department/Office to which an employee belongs, and/or on whose pay roll he/she is borne, shall obtain an option in writing from such employee, within 60 days commencing from the date of issue of this letter, either to continue to draw salary either in the Scheme of Basic Pay Scales-2008 or in the Scheme of Basic Pay Scale-2011 as specified in this letter. Option once exercised shall be considered final, which will then be communicated to the concerned Accounts Office or DDO, as the case may be.
- (ii) An existing employee, who does not exercise and communicate his/her option within the specified time limit, shall be deemed to have opted for the Scheme of Basic Pay Scales-2011.

24. All the existing rules/orders on the subject shall be considered to have been modified to the extent indicated above. All the existing rules/orders not so modified shall continue to remain in force as such.

25. Anomalies:

An Anomalies Committee will be constituted in the Provincial Finance Department to resolve anomalies, if any, arising out of implementation of the scheme of Basic Pay Scales - 2011 or out of other changes notified through this letter.

Yours Faithfully,

(Sahibzada Saad Ahmad)
Secretary Finance

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Endst: No .FD (PRC) 1-1 /2011 Dated Peshawar the 14th July, 2011

A Copy is forwarded for information to the:-

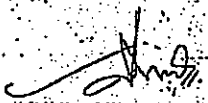
1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Secretaries to Government of Punjab, Sindh and Balochistan.
3. All Autonomous/Semi Autonomus Bodies in Khyber Pakhtunkhwa.


(MASOOD KHAN)
DEPUTY SECRETARY (REG-II)

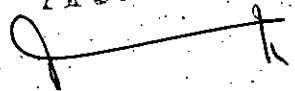
Endst: No & Date even.

A copy for information is forwarded to:-

1. All District Comptrollers of Accounts in Khyber Pakhtunkhwa.
2. All Senior District Accounts Officers in Khyber Pakhtunkhwa.
3. All District & Agency Accounts Officers in Khyber Pakhtunkhwa.
4. The District Accounts Officer (Treasury Wing) Peshawar.
5. The Private Secretary to Minister Finance, Khyber Pakhtunkhwa.
6. The Director, Local Fund Audit, Peshawar.
7. The Director, FMU, Finance Department.
8. All Section / Budget Officers in Finance Department.
9. The Private Secretary to Secretary / P.As to Additional Secretaries / Deputy Secretaries in Finance Department.
10. Zonal Chiefs of All Commercial Banks, Khyber Pakhtunkhwa.


(KHURSHID ALAM)
SECTION OFFICER (SR-1)

ATTESTED

Attested


**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.

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

ATTACHED


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

Dist. Govt. NWFP-Provincial
District Accounts Office Peshawar Dist.
Monthly Salary Statement (August-2019)

Annexure: B



13

Personal Information of Mr ABDUL JABBAR d/w/s of MOHAMMAD IBRAHIM

Personnel Number: 00048576 CNIC: 13770004892 NTN: 0
Date of Birth: 14.04.1970 Entry into Govt. Service: 07.05.1996 Length of Service: 23 Years 03 Months 026 Days

Employment Category: Active Permanent

Designation: CERTIFICATED TEACHER 80004183-DISTRICT GOVERNMENT KHYBE

DDO Code: PW6058-PRINCIPAL GOVT: HIGHER SECONDARY SC HOOL CHAMKANI PESHAWAR

Payroll Section: 003 GPF Section: 001 Cash Center: 13

GPF A/C No: EDU 043858 Interest Applied: Yes GPF Balance: 499,022.00

Vendor Number: -

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

Wage type		Amount	Wage type		Amount
0001	Basic Pay	37,400.00	1000	House Rent Allowance	2,349.00
1300	Medical Allowance	1,500.00	2148	15% Adhoc Relief All-2013	796.00
2199	Adhoc Relief Allow @10%	535.00	2211	Adhoc Relief All 2016 10%	2,742.00
2224	Adhoc Relief All 2017 10%	3,740.00	2247	Adhoc Relief All 2018 10%	3,740.00
2264	Adhoc Relief All 2019 10%	3,740.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-2,890.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-197.00	3990	Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-1,052.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax

Payable: 3,925.15 Recovered till AUG-2019: 394.00 Exempted: 1569.25 Recoverable: 1,961.90

Gross Pay (Rs.): 56,542.00 Deductions: (Rs.): -4,864.00 Net Pay: (Rs.): 51,678.00

Payee Name: ABDUL JABBAR

Account Number: 0010000541080017

Bank Details: ALLIED BANK LIMITED, 250307 G.T. Rd. Peshawar City. G.T. Rd. Peshawar City., Peshawar

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: PESH

City: Peshawar

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: abduljabbar9044038@gmail.com

Attested

Dist. Govt. NWFP-Provincial
District Accounts Office Peshawar Dist.
Monthly Salary Statement (September-2019)



18
14

Personal Information of Mr ABDUL JABBAR d/w/s of MOHAMMAD IBRAHIM

Personnel Number: 00048576 CNIC: 13770004892 NTN: 0
Date of Birth: 14.04.1970 Entry into Govt. Service: 07.05.1996 Length of Service: 23 Years 04 Months 025 Days

Employment Category: Active Permanent

Designation: CERTIFICATED TEACHER 80004183-DISTRICT GOVERNMENT KHYBE

DDO Code: PW6058-PRINCIPAL GOVT: HIGHER SECONDARY SC HOOL CHAMKANI PESHAWAR

Payroll Section: 003 GPF Section: 001 Cash Center: 13

GPF A/C No: EDU 043858 Interest Applied: Yes GPF Balance: 501,912.00

Vendor Number: -

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

Wage type		Amount	Wage type		Amount
0001	Basic Pay	37,400.00	1000	House Rent Allowance	2,349.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc/Relief All-2013	796.00	2199	Adhoc Relief Allow @10%	535.00
2211	Adhoc Relief All 2016 10%	2,742.00	2224	Adhoc Relief All 2017 10%	3,740.00
2247	Adhoc Relief All 2018 10%	3,740.00	2264	Adhoc Relief All 2019 10%	3,740.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-2,890.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-282.00	3990	Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-600.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 5,353.15 Recovered till SEP-2019: 676.00 Exempted: 2141.04 Recoverable: 2,536.11

Gross Pay (Rs.): 59,398.00 Deductions: (Rs.): -4,497.00 Net Pay: (Rs.): 54,901.00

Payee Name: ABDUL JABBAR

Account Number: 0010000541080017

Bank Details: ALLIED BANK LIMITED, 250307 G.T. Rd. Peshawar City. G.T. Rd. Peshawar City., Peshawar

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: PESH

City: Peshawar

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: abduljabbar9044038@gmail.com

Attested

To,

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

Subject:- Department Appeal against the Impugned Action of the Concerned Authority by Illegal 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 CT BPS-15 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. Letter 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. 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 failed 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 30.12.2018. 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 which is granted to other employees I am feeling aggrieved from the action of concerned authority regarding deduction of conveyance allowance in vacation period/ Months preferred this Departmental appeal before your good self.

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

Your Obediently

MR.
Abdul Jabbar (CT)
GHSS Chamkani Peshawar

Dated: 07.10.2019

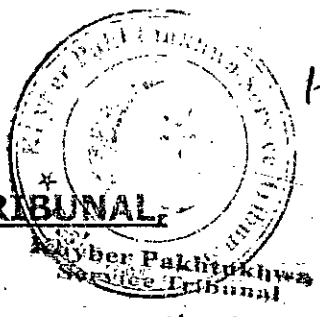
*Encl. No-232-A
Dated 07/10/2019*

tested

Annexure: D

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16



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

APPEAL NO. 1454 /2019

Diary No. 1491

Dated 24/10/19

Mr. Misbah-Ul-Islam, DM (BPS-16),
Govt: Centennial Model High School, Peshawar City.....**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:

ATTESTED

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]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Feroz-ko-dar
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 on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees


Re-submitted to -day and find.
Registrar
11/11/19

working in BPS 1 to 15 were enhance/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 are attached as annexure.....A.

- 3- That 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. Copies of the salary slips of working/serving month and vacations (deduction period) are attached as annexureB & C.
- 4- That 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 in light of the judgment dated 03.12.2018 proper Notifications were issued on different dates. Copies of the Judgment & Notifications are attached as annexure.....D & E.
- 5- That appellant feeling aggrieved from the action of the respondents regarding deduction of conveyance allowance in vacations period/months filled Departmental appeal but no reply has been received so far. That feeling aggrieved the appellant along with his other colleagues 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 directions to approach the proper forum i.e. Service Tribunal. Copies of the Departmental appeal & judgment is attached as annexure.....F & G.
- 6- 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 o other remedy filed the instant service appeal on the following grounds amongst the others.

GROUND:

ATTESTED- That the action and inaction of the respondents regarding deduction of the conveyance allowance for vacations period/months is illegal, against the law, facts norms of natural justice.


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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, 1989 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 aspects 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 institutional 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 allowances 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.

APPELLANT

MISBAH-UL-ISLAM
 MISBAH-UL-ISLAM

THROUGH:

NOOR MOHAMMAD KHATTAK
 &
 MIR ZAMAN SAFI
 ADVOCATES

Certified true and correct copy
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Date of ... 13-12-18
Number ... 1200
Company ...
Origin ...
To ...
From ...
Date of Delivery ... 18-12-18
18-12-18

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.

89/ 
Chairman

ANNOUNCED

11.11.2019

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

وکالت نامہ

بعدالت صاحب کسٹومرز سروسز پرائیویٹ لمیٹڈ چکنی ہائی وائیٹ پشاور

عبد الجبار ولد محمد ابرار سکرنہ زین آباد چکنی پشاور

منجانب مدعی

دعویٰ یا جرم

تھانہ: ایف آئی آر: تاریخ:

باعث تحریر آئیکہ مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جواہری بمقام
شاور کیلئے بیسٹر عامر خان چکنی ایڈوکیٹ ہائی وائیٹ پشاور

کو بدیں شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت
 پکارے جانے مقدمہ جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا، اگر پیشی پر من
 مظہر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس
 کے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام کچہری سے کسی اور جگہ یا کچہری کے
 مقررہ اوقات سے پہلے پانچ بجے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے، اگر مقدمہ علاوہ صدر کچہری
 کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پانچ بجے پیش ہونے پر من مظہر کو کوئی
 نقصان پہنچے تو اس کی ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نامہ واپس کرنے کے بھی
 صاحب موصوف ذمہ دار نہ ہوں گے، مجھ کو کل ساختہ پر داختمہ صاحب موصوف نش کردہ ذات خود منظور و قبول ہوگا
 اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی
 درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کا روپیہ
 وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ثالثی دراضی نامہ کو فیصلہ پر خلاف
 کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت اپیل برآمدگی مقدمہ یا منسوخ ڈگری یکطرفہ
 درخواست حکم استماعی یا قرتی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادا سبکی علیحدہ مختار نامہ پیروی کا
 اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا، یا مقدمہ مذکورہ یا اس کے کسی جزو کی
 کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیسٹر کو بجائے اپنے یا پانے ہمراہ
 مقرر کریں اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے جیسے کہ صاحب
 موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر بناہ التواء پڑے گا وہ صاحب موصوف کو پورا اختیار ہوگا
 کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ بھی صاحب موصوف کے برخلاف نہیں ہوگا،

لہذا یہ مختار نامہ لکھ دیا تاکہ سندر ہے۔

مورخہ 22/1/2020 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Attested
 &
 Accepted

عبد الجبار ولد محمد ابرار سکرنہ زین آباد چکنی پشاور