

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.

6. Therefore, in the circumstances we are left with no option but to follow the consistent view of the Hon'ble Peshawar High Court, Peshawar and the Hon'ble Chairman of the august Services Tribunal and other august forums and cannot form an opinion other than as enunciated in the dictum of the august forum.

7. Since it has been held outrightly that conveyance allowance allowed to the civil servants of vacations departments is integral part of their pay and it cannot be severed from other emoluments to which they are held entitled therefore, deduction and consequently withholding of conveyance allowance during the course of summer and winter vacations is an action/act in violation of the law and rules on the subject which is not permissible therefore, in order to save the appellant from such dilemma and predicament respondents are directed not to deduct conveyance allowance from the pay of the appellant during the period of summer and winter vacations and also give it effect in the light of the judgment of Hon'ble Peshawar high Court in Writ Petitions including W.P No. 3162-P/2019 at the earliest and simultaneously the appellant can nevertheless, seek remedy in case his grievance is not redressed by respondents within a reasonable period of time. File be consigned to the record room.

ANNOUNCED
27.07.2020

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Chapter II of the Khyber Pakhtunkhwa Civil Servants Act, 1973.

Learned counsel for the appellant has placed reliance on an unreported judgment of the Hon'ble Sindh Services Tribunal Karachi dated 23.12.2015 whereby deduction of conveyance allowance during the course of summer vacations, has been held in contravention of rule 747 (clause-a), it was held that vacations counts as duty, that the appellant and all the civil servants serving in vacations departments are allowed to receive the conveyance allowance during summer and winter vacations, as vacations are holidays and not a leave of any kind and the conveyance allowance during the vacations was not allowed to be deducted from the pay of the officials.

5. At the very outset it is pertinent to make reference to the judgment of this august Services Tribunal dated 11.11.2019 passed by the Hon'ble Chairman, Khyber Pakhtunkhwa Services Tribunal, in Appeal bearing No. 1452/2019 titled Maqсад Hayat Versus Government of KPK wherein order has been made to the following effect

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 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

27.07.2020

Miss. Uzma Syed, Advocate for the appellant is present.

2. My this single order is going to dispose of the instant appeal bearing No. 1499 of 2020 Captioned Gohar Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and four others respondents.

3. Through the instant appeal submitted under Section-4 of the Services Tribunal Act, 1974, the actions of the respondents by withholding the conveyance allowance and its deduction from appellant during the course of winter and summer vacations have been challenged. It was stated that adverse actions/orders of deduction of conveyance allowance were called in question in departmental appeal within the stipulated period of time but no action was taken. It has been prayed that the respondents may kindly be directed not to deduct the conveyance allowance during vacation period irrespective of the fact whether it were summer or winter vacations and make the payment of all outstanding amount of conveyance allowance which has been deducted previously with all back benefits.

4. Learned counsel for the appellant invited the attention of this Single Bench to the judgment dated 1st October 2019 passed by the Hon'ble Peshawar High Court, Peshawar vide Writ Petition Bearing No. 3162-P/2019 Akhtar Hussain and 60 others versus Government of Khyber Pakhtunkhwa, while dilating upon the issue it has been held in categorical terms that pay means the amount drawn monthly by a civil servant as pay, and include special pay, personal pay and any other emoluments declared by the prescribed authority to be paid. It was also held that conveyance allowance is the part and parcel of pay. The petitioners agitating the matter in the august High Court were stated to be civil servants and their claims were held falling within the terms and conditions of service enumerated in



Form- A

FORM OF ORDER SHEET

Court of _____

Case No: _____

U.S.S.

/2020

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11.03.2020	<p>The present appeal submitted today by Uzma Syed Advocate, may be entered in the institution register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	18/03/20	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on 08.04.2020.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>
	08.04.2020	<p>Due to COVID-19, the case is adjourned. To come for the same on 27.07.2020 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>

0

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal: 1498 /2020.

Mr . Gohar SPST (14) versus EDUCATION DEPTT

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES	
1.	Memo of appeal		01	03
2.	Stay application		04	--
3.	Notification	A	05	--
4.	Pay Slips	B & C	06	07
5.	Departmental Appeal	D	08	--
6.	Service Tribunal Judgment	E	09	10
7.	Wakalat Nama	F	11	--

APPELLANT

Gohar
Gohar

THROUGH:

Uzma Syed
Uzma Syed

Advocate

Sis,

*SPAK copies will be submitted
after submission of appeal.*

the conveyance allowance for employees working in BPS-01 level has been enhanced 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 is as annexure-A.)
3. That Appellant was receiving the conveyance allowances as admissible under the law and rules but the respondents without any valid and justifiable reasons stopped deducting 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 working (deduction Period) are as annexure... B&C.)

4. That appellant feeling aggrieved from the action of the respondents regarding deduction of conveyance allowance in vacation period, appealed to the Department but no reply has been received from the respondents. That appellant feeling aggrieved and having no other remedy filed that instant service appeal on the following grounds amongst others: (Copy of Department appeal is attached as annexure-D)

GROUNDS:

A. That the action and inaction of the respondents regarding deduction of allowance for vacation period is illegal against the law, facts and norms of natural justice.

B. That the appellant have not been treated by the respondents Department in accordance with law and rules on the subject-here above and as such the respondents violated Article-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 of Government servant revised leave Rules, 1981 while the vacation are always announced by the Government, therefore under the law and Rules the appellant fully entitled for the grant of conveyance allowance during vacation period.

E. That the Government servant Revised Leave Rules, 1981 clearly explain that the civil servants who avail the vacations are allowed only one leave in a month whereas the other civil servants may 04 leave in a calendar month and the same are credited to his account and interest may be may avail 48 days earned leave with full pay, whereas the government servants to avail vacations such as appellant is allowed one days 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

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1636

Dated 11/3/2020

Service Appeal: 1488 /2020.

Mr.Gohar SPST (BPS14) GPS, Kochi Abad Tehsil & Distt Mardan.

(Appellant)

Versus

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

(Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKTUNKHWA 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 90 DAYS.

PRAYER:

Filed to-day
 Registrar
 11/3/2020

That on a acceptance of this appeal the respondents may kindly be directed not be 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 SPST (BPS-14) 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 effects a Notification No. FD (PRC) 1-1/ 2011 dated 14.07.2011 was issued. That later on vid revised notification dated 20.12.2012 where by

the conveyance allowance for employees working in BPS-01-to 15 were enhance/revised while employees from BPS-16 to19 have been treated under the previous notification by not enhancing their conveyance allowance.

(Copy of the notification dated 20.12.2012 is as annexure- A.)

- 3. That Appellant was receiving the conveyance allowances 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 vacation (deduction Period) are as annexure ...B&C).

- 4. That appellant feeling aggrieved from the action of the respondents regarding deduction of conveyance allowance in vacation period/ months field Department appeal but no reply has been received from the respondents. That appellant feeling aggrieved and having no other remedy filed that instant service appeal on the following grounds amongst the others. **(Copy of Department appeal is attached as annexure ... D)**

GROUND:

- A. That the action and inaction of the respondents regarding deduction of 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 respondents Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 & 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 vacation 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 vocations are allowed only one leave in a month whereas, the other civil servants may 04 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 vacations such as appellant is allowed one days 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 conveyances allowance from appellant.

F. That some of colleagues of the appellant approached to this august Tribunal in different service appeal which was allowed by this Tribunal vide its judgment dated 11.11.2019.

(Copy of judgment is as annexureE)

- G. 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.
- H. That appellant has vested right of equal treatment before law, and the act of the respondents to deprive the appellants from the conveyance allowance is unconstitutional and clear violation of fundamental rights.
- I. That accordance to government servants revised leave rules, 1981 vacations are holy days and not leave of any kind, therefore, deduction of conveyance allowance in vacations is against the law and rules.
- J. That according to Article-38 (e) of the Constitution of Islamic Republic of Pakistan, 1973 the state is bond 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.
- K. That the appellant seeks Permission of this Honorable Tribunal to raise any other grounds available at the time of arguments.

It is therefore, most humbly prayed that the appeal of the appellant be accepted as prayed for.

APPELLANT



Gohar

THROUGH:



UZMA SYED

ADVOCATE

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal: _____/2020.

Mr. Gohar

Versus

EDUCATION DEPTT

APPLICATION FOR RESTRAING THE RESPONDENTS FROM RECOVERY AND ONWARD DEDUCTION OF CONVEYANCE ALLOWANCE DURING VACATIONS PERIOD.

R/SHEWTH:

1. That the appellat filed above mentioned appeal along with this application before this august Service Tribunals in which now date has been fixed so far.
2. That appellat filed the above mentioned appeal against the impugned action of the respondents by illegally and unlawfully deducting the conveyance allowance during the winter and summer vacations.
3. That the impugned action of the respondent by deducting conveyance allowance during winter & summer vacation is utter violation of law and rules.
4. That all the three ingredients necessary for the stay is in favor of the appellat.
5. That the ground of main appeal also be consider as integral part of this application.

Its is therefore, most humbly prayed that on acceptance of this application the respondents may kindly be restrained from recovery and onward deduction of conveyance allowance during vocations period till disposal of the above mentioned appeal.

APPELLANT



Gohar

THROUGH:



*** UZMA SYED***

ADVOCATE



Annex A - 6

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD/SO(SR-11)/8-52/2012
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 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 IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL GOVERNMENT BPS 1-19

Dear Sir,

The Government of Khyber Pakhtunkhwa has been pleased to enhance / revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants, Govt. of Khyber Pakhtunkhwa (working in BPS-1 to BPS-19) w.e.f from 1st September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-15 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 of the above rates per month shall be admissible to those BPS-17, 18 and 19 officers who have not been sanctioned official vehicles.

Yours Faithfully,

(Sahibzad Saeed Ahmad)
Secretary Finance

Encl: NO. FD/SO(SR-11)/8-52/2012

Dated Peshawar the 20th December, 2012

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Secretaries to Government of Punjab, South & Sahibzada Finance Department
3. All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa

(INTIAZ AYUB)
Additional Secretary (Bar)

Attended

ATTN

M

BETTER COPY PAGE-5

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-18 and 19 officers who have not been sanctioned official vehicle.

Your Faithfully

(Sahibzada Saeed Ahmad)
Secretary Finance

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

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

Annex B/G



Personal Information of Mr GOHAR d/w/s of SHER BAHADAR

Personnel Number: 00367560 CNIC: 1610159094611
Date of Birth: 15.01.1985 Entry into Govt. Service: 30.12.2006

NTN:
Length of Service: 12 Years 07 Months 003 Days

Employment Category: Vocational Permanent

Designation: SENIOR PRIMARY SCHOOL TEA 80003432-DISTRICT GOVERNMENT KHYBE
DDO Code: MR6156-DY.DISTRICT EDUCATION OFFICER (M) M
Payroll Section: 003 GPF Section: 001 Cash Center: 4
GPF A/C No: 367560 Interest Applied: Yes **GPF Balance:** 255,948.00

Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 14 Pay Stage: 8

Wage type		Amount	Wage type		Amount
0001	Basic Pay	24,540.00	1000	House Rent Allowance	2,214.00
1300	Medical Allowance	1,500.00	2148	15% Adhoc Relief All-2013	500.00
2199	Adhoc Relief Allow @ 10%	340.00	2211	Adhoc Relief All 2016 10%	1,754.00
2224	Adhoc Relief All 2017 10%	2,454.00	2247	Adhoc Relief All 2018 10%	2,454.00
2264	Adhoc Relief All 2019 10%	2,454.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3014	GPF Subscription - Rs2620	-2,620.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp:	-1,052.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till JUL-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 38,210.00 Deductions: (Rs.): -4,397.00 Net Pay: (Rs.): 33,813.00

Payee Name: GOHAR

Account Number: 02197900013903

Bank Details: HABIB BANK LIMITED, 220219 BANK ROAD, MARDAN. BANK ROAD, MARDAN., MARDAN.

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: MARDAN

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

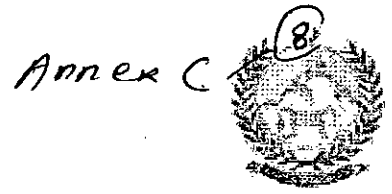
Email: gsabir58.gs@gmail.com

Handwritten signature

GPS. Kechi Abad marden

16/01-5909461-1

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



Personal Information of Mr GOHAR d/w/s of SHER BAHADAR

Personnel Number: 00367560 CNIC: 1610159094611 NTN:
Date of Birth: 15.01.1985 Entry into Govt. Service: 30.12.2006 Length of Service: 13 Years 00 Months 003 Days

Employment Category: Vocational Permanent

Designation: SENIOR PRIMARY SCHOOL TEA 80003432-DISTRICT GOVERNMENT KHYBE

DDO Code: MR6156-DY.DISTRICT EDUCATION OFFICER (M) M

Payroll Section: 003 GPF Section: 001 Cash Center: 4

GPF A/C No: 367560 Interest Applied: Yes **GPF Balance: 303,333.00**

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 14 Pay Stage: 9

Wage type		Amount	Wage type		Amount
0001	Basic Pay	25,710.00	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	500.00	2199	Adhoc Relief Allow @10%	340.00
2211	Adhoc Relief All 2016 10%	1,754.00	2224	Adhoc Relief All 2017 10%	2,571.00
2247	Adhoc Relief All 2018 10%	2,571.00	2264	Adhoc Relief All 2019 10%	2,571.00

Deductions - General

Wage type		Amount	Wage type		Amount
3014	GPF Subscription	-2,620.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp:	-600.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable: 0.00 Recovered till DEC-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 42,587.00 Deductions: (Rs.): -3,945.00 Net Pay: (Rs.): 38,642.00

Payee Name: GOHAR

Account Number: 02197900013903

Bank Details: HABIB BANK LIMITED, 220219 BANK ROAD, MARDAN, BANK ROAD, MARDAN., MARDAN

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: MARDAN

Temp. Address:

City:

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Email: gsabir58.gs@gmail.com

Attested

To

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

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

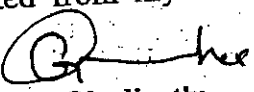
Respected Sir,

With due respect it is stated that I am the employee of your good self Department and is serving as SS (BPS-17) 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 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. 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 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.

Your Obediently

Attached
11/11



29-11-2019

Annex E - (16)

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

APPEAL NO. 1452 /2019

Khyber Pakht
Service Trib

Diary No. 1

Dated 24/11/19

Mr. Maqsd Hayat, SCT (BPS-16),
GHS Masho Gagar, Peshawar.....**APPELLANT**

VERSUS

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

.....**RESPONDENT:**

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

PRAYER:

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

Medto-day

Registrar

24/11/19

R/SHEWETH:

ON FACTS:

- 1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficient 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

Recommitted to-day
REGISTRAR

11/11/19

Attested

Appeal No. 1452/2019
Marbad Hayat vs Govt

(16)

11.11.2019

Counsel for the appellant present.

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

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

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

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

File be consigned to the record.

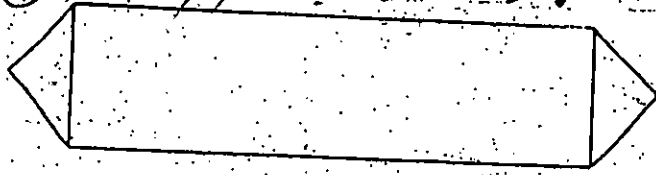

Chairman

ANNOUNCED

11.11.2019

Handwritten signature/initials

بعدالت جناب سپرویس سروسز ٹریبونل اسلام آباد



اسٹیشن
ایئر لائن

جناب 2

گوبند بنام

موزی

مقدمہ

دعویٰ سروسز اسٹیشن
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام اسلام آباد کیلئے عظیم سید انور کیلئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا مکمل اختیار ہوگا نیز

وکیل صاحب کو راضی نامہ کرنے و تقررات و فیصلہ پر خلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برائگی

اور منسوخی نیز دائر کرنے اپیل نگرانی 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 با اختیارات حاصل ہوں گے

اور اس کا ساتھ پر داخہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے

سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

نہی
لے لیں

Accept

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الرقوم

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کے لئے منظور ہے۔

مقام