

14.10.2020

Counsel for appellant present.

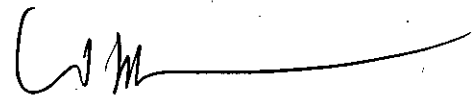
Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Hon'ble 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 Hon'ble 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 Hon'ble 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 Hon'ble Peshawar High Court passed in Writ Petitions including W.P. No. 3162-P/2019 shall be honored and implemented by the respondent 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 room.


Atiq-Ur-Rehman Wazir
Member (E)

ANNOUNCED

13.10.2020

FORM OF ORDER SHEET

Court of _____

Case No. 9582 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/08/2020	The appeal presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14/10/20</u>


MEMBER(J)

NOOR MUHAMMAD KHATTAK
ADVOCATE
OFFICE: 2nd Floor,
Lahore Bar Association,
Lahore. Phone: 37331111

After Admission of the case
Share copies will be submitted

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

APPEAL NO. 9582/2020

SADAQAT BIBI

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1-3.
2.	Notification	A	4.
3.	Pay slips	B & C	5- 6.
4.	Service Tribunal judgment	D	7- 8.
5.	Departmental appeal	E	9.
6.	Vakalat nama	10.

APPELLANT

THROUGH:

**NOOR MUHAMMAD KHATTAK
ADVOCATE**

OFFICE: Flat No.4, 2nd Floor,
Juma Khan Plaza,
Near FATA Secretariat,
Warsak Road, Peshawar.
0345-9383141

Note:

Sir,

Spare copies will be submitted
After Admission of the case.

m

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

APPEAL NO. 9582 /2020

Khyber Pakhtunkhwa
Service Tribunal

Discy No. 8895

Dated 17/8/20

Miss. Sadaqat Bibi, SPST (BPS-14),
GGPS Jambal, District Shangla.

.....**APPELLANT**

VERSUS

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

.....**RESPONDENTS**

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

PRAYER:

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 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 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

Filed to-day

[Signature]
Registrar 17/8/20

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 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 vacations (deduction period) are attached as annexure..... **B & C.**
- 4- That some of colleagues of the appellant approached to this august Tribunal in different service appeals which was allowed by this august Tribunal vide its judgment dated 11.11.2019. Copy of the judgment is attached as annexure..... **D.**
- 5- That appellant also filed Departmental appeal before the appellate for redressal of his grievances in light of the principle of consistency but no reply has been received from the quarter concerned. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure..... **E.**

GROUND:

- 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 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 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.

APPELLANT


SADAQAT BIBI

THROUGH:


NOOR MOHAMMAD KHATTAK

&


MIR ZAMAN SAFI
ADVOCATES

BETTER COPY PAGE--4

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-I 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

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

A - 4



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FDSO(SR) 118-52/2012
Dated Peshawar this 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 Government, Khyber Pakhtunkhwa.
- 4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 5. The Secretary, Financial Accounts, Khyber Pakhtunkhwa.
- 6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 7. All District Coordination Officers, Khyber Pakhtunkhwa.
- 8. As 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/-

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 vehicles.

Yours Faithfully,

(Signature)
Sahibzad Saad Ahmad
Secretary Finance

Encl: NO. FDSO(SR) 118-52/2012

Dated Peshawar this 20th December, 2012

A Copy is forwarded for information to the:-

- 1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2. Secretaries to Government of Punjab, Sindh & Balochistan, Finance Department.
- 3. As appropriate / Self Administrative Bodies, Khyber Pakhtunkhwa.

(Signature)
IMTIYAZ AYUB
Additional Secretary, Finance

DDO: SH6145 Govt. Primary Schools (Female), Tehsil Payroll Section: 001 Payroll-1				GPF#:	EDUSW016776	370,566.00
0001 Basic Pay	27,720.00	3012 GPF Subscription	2,220.00-			
1000 House Rent Allowance	1,961.00	3501 Benevolent Fund	600.00-			
1210 Convey Allowance 20	2,856.00	3990 Emp. Edu. Fund KPK	125.00-			
1300 Medical Allowance	1,500.00	4004 R. Benefits & Death C	600.00-			
1550 Special Allowance	800.00					
1911 Compen Allow 20% (1-	1,000.00					
2148 15% Adhoc Relief All	575.00					
2199 Adhoc Relief Allow @	329.00					
2211 Adhoc Relief All 201	1,994.00					
2224 Adhoc Relief All 201	2,772.00					
2247 Adhoc Relief All 201	2,772.00					
2264 Adhoc Relief All 201	2,772.00					
PAYMENTS	47,111.00	DEDUCTIONS	3,545.00-	NET PAY	43,566.00	01.10.2019 31.10.2019
Branch Code: 240968	MCB ALLOCH SHANGLA	MUSLIM COMMERCIAL BANK	MCB ALLOCH SHANGLA	SHANGLA		Accnt.No: 4571-1

00204402 SADAQAT BIBI		CNIC: 1550530765820		Desig: PRIMARY SCHOOL HEAD (80335736) Grade: 14 NTN:		Buckle No.:		Gazetted/Non-Gazetted: N	
PAYMENTS	A.M.O.U.N.T.	DEDUCTIONS	A.M.O.U.N.T.	LOAN/FUND	PRINCIPAL	REPAID	BALANCE		
0001 Basic Pay	33,900.00	3012 GPF Subscription	2,890.00-		GPF#:	EDSW 015897	396,273.00		
1000 House Rent Allowance	2,214.00	3501 Benevolent Fund	600.00-		INCOME TAX	2,475.96	545.00	1,931.52	
1210 Convey Allowance 20	2,856.00	3990 Emp. Edu. Fund KPK	125.00-						
1300 Medical Allowance	1,500.00	4004 R. Benefits & Death C	600.00-						
1550 Special Allowance	800.00	3609 Income Tax	242.00-						
1911 Compen Allow 20% (1-	1,000.00								
2148 15% Adhoc Relief All	735.00								
2199 Adhoc Relief Allow @	495.00								
2211 Adhoc Relief All 201	2,546.00								
2224 Adhoc Relief All 201	3,390.00								
2247 Adhoc Relief All 201	3,390.00								
2264 Adhoc Relief All 201	3,390.00								
PAYMENTS	56,216.00	DEDUCTIONS	4,457.00-	NET PAY	51,759.00	01.10.2019 31.10.2019			
Branch Code: 232245	PURAN DISTRICT SHANGLA	NATIONAL BANK OF PAKISTAN	PURAN DISTRICT SHANGLA	SHANGLA					Accnt.No: 4146851072

صورتی بابت
 رقم 4995
 پ. 000204402

00204404 HARAM BIBI		CNIC: 11377263535		Desig: PRIMARY SCHOOL TEACH (80335911) Grade: 12 NTN:		Buckle No.:		Gazetted/Non-Gazetted: N	
PAYMENTS	A.M.O.U.N.T.	DEDUCTIONS	A.M.O.U.N.T.	LOAN/FUND	PRINCIPAL	REPAID	BALANCE		
0001 Basic Pay	27,720.00	3012 GPF Subscription	2,220.00-		GPF#:	EDUSW016776	348,289.00		
1000 House Rent Allowance	1,961.00	3501 Benevolent Fund	600.00-						
1210 Convey Allowance 20	2,856.00	3990 Emp. Edu. Fund KPK	125.00-						
1300 Medical Allowance	1,500.00	4004 R. Benefits & Death C	600.00-						
1550 Special Allowance	800.00								
1911 Compen Allow 20% (1-	1,000.00								
2148 15% Adhoc Relief All	600.00								
2199 Adhoc Relief Allow @	405.00								
2211 Adhoc Relief All 201	2,074.00								
2224 Adhoc Relief All 201	2,772.00								
2247 Adhoc Relief All 201	2,772.00								
2264 Adhoc Relief All 201	2,772.00								
PAYMENTS	47,232.00	DEDUCTIONS	3,545.00-	NET PAY	43,687.00	01.10.2019 31.10.2019			
Branch Code: 240968	MCB ALLOCH SHANGLA	MUSLIM COMMERCIAL BANK	MCB ALLOCH SHANGLA	SHANGLA					Accnt.No: 6902-5

ATTESTED

00204406 SHAGUFTA BEGUM		CNIC: 11377264884		Desig: PRIMARY SCHOOL HEAD (80335921) Grade: 15 NTN:		Buckle No.:		Gazetted/Non-Gazetted: N	
PAYMENTS	A.M.O.U.N.T.	DEDUCTIONS	A.M.O.U.N.T.	LOAN/FUND	PRINCIPAL	REPAID	BALANCE		

1000 House Rent Allowance	2,760.00	3012 GPF Subscription - Rs	2,220.00-
1300 Medical Allowance	1,561.00	3501 Benevolent Fund	600.00-
1550 Special Allowance	800.00	3914 Education (ROP)	1,428.00-
1911 Compen Allow 20% (1-	1,000.00	3990 Emp.Edu. Fund KPK	125.00-
2148 15% Adhoc Relief All	575.00	4004 R. Benefits & Death C	1,052.00-
2199 Adhoc Relief Allow @	389.00	3609 Income Tax	50.00-
2211 Adhoc Relief All 201	1,994.00		
2224 Adhoc Relief All 201	2,676.00		
2247 Adhoc Relief All 201	2,676.00		

GPF#: EDUSW016776 297,850.00
 INCOME TAX 600.00 150.00 450.00
 NET PAY SHANGLA 34,856.00 01.09.2018 30.09.2018
 Accnt.No: 4571-1

PAYMENTS 40,331.00
 Branch Code:240968 MCB ALLOCH SHANGLA

DEDUCTIONS 5,475.00-
 MUSLIM COMMERCIAL BANK MCB ALLOCH SHANGLA

00204402 SADAQAT BIBI CNIC: 11377263340 Desig: SENIOR PRIMARY SCHOO(80335909) Grade: 14 NTN: Buckle No.: Gazetted/Non-Gazetted: N

0001 Basic Pay	32,730.00	3014 GPF Subscription - Rs	2,620.00-
1000 House Rent Allowance	2,214.00	3501 Benevolent Fund	600.00-
1300 Medical Allowance	1,500.00	3914 Education (ROP)	7,902.00-
1550 Special Allowance	800.00	3990 Emp.Edu. Fund KPK	125.00-
2148 15% Adhoc Relief All	735.00	4004 R. Benefits & Death C	1,052.00-
2199 Adhoc Relief Allow @	495.00	3609 Income Tax	50.00-
2211 Adhoc Relief All 201	2,546.00		

GPF#: EDSW 015897 318,574.00
 INCOME TAX 600.00 150.00 450.00

J. Gaps B. B. ...
P.O. 204402

2224 Adhoc Relief All 201	3,273.00
2247 Adhoc Relief All 201	3,273.00

PAYMENTS 47,566.00
 Branch Code:232245 PURAN DISTRICT SHANGLA

DEDUCTIONS 12,349.00-
 NATIONAL BANK OF PAKISTAN PURAN DISTRICT SHANGLA

NET PAY SHANGLA 35,217.00 01.09.2018 30.09.2018
 Accnt.No: 4146851072

00204403 RAZIA BEGUM CNIC: 1550502005468 Desig: PRIMARY SCHOOL TEACH(80335865) Grade: 13 NTN: Buckle No.: Gazetted/Non-Gazetted: N

0001 Basic Pay	31,060.00	3012 GPF Subscription - Rs	2,220.00-
1000 House Rent Allowance	2,091.00	3501 Benevolent Fund	600.00-
1300 Medical Allowance	1,500.00	3990 Emp.Edu. Fund KPK	125.00-
1550 Special Allowance	800.00	4004 R. Benefits & Death C	1,052.00-
1911 Compen Allow 20% (1-	1,000.00	3609 Income Tax	50.00-
2148 15% Adhoc Relief All	675.00		
2199 Adhoc Relief Allow @	454.00		
2211 Adhoc Relief All 201	2,314.00		
2224 Adhoc Relief All 201	3,106.00		
2247 Adhoc Relief All 201	3,106.00		

GPF#: 256,906.00
 INCOME TAX 600.00 150.00 450.00

PAYMENTS 46,106.00
 Branch Code:240968 MCB ALLOCH SHANGLA

DEDUCTIONS 4,047.00-
 MUSLIM COMMERCIAL BANK MCB ALLOCH SHANGLA

NET PAY SHANGLA 42,059.00 01.09.2018 30.09.2018
 Accnt.No: 3835-6

00204404 HARAM BIBI CNIC: 11377263535 Desig: PRIMARY SCHOOL TEACH(80335911) Grade: 12 NTN: Buckle No.: Gazetted/Non-Gazetted: N

0001 Basic Pay	26,760.00	3012 GPF Subscription - Rs	2,220.00-
1000 House Rent Allowance	1,961.00	3501 Benevolent Fund	600.00-
1300 Medical Allowance	1,500.00	3990 Emp.Edu. Fund KPK	125.00-
1550 Special Allowance	800.00	4004 R. Benefits & Death C	1,052.00-
1911 Compen Allow 20% (1-	1,000.00	3609 Income Tax	50.00-
2148 15% Adhoc Relief All	600.00		
2199 Adhoc Relief Allow @	405.00		
2211 Adhoc Relief All 201	2,074.00		
2224 Adhoc Relief All 201	2,676.00		
2247 Adhoc Relief All 201	2,676.00		

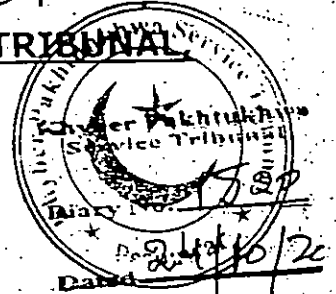
GPF#: EDUSW016776 278,368.00
 INCOME TAX 600.00 150.00 450.00

PAYMENTS

D-7B-0

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1452 /2019



Mr. Maqсад Hayat, SCT (BPS-16),
GHS Masho Gagar, Peshawar.....

APPELLANT

VERSUS

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

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.

Filed to-day
Registrar
24/10/19

R/SHEWETH:

ATTESTATION 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

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
11/11/19

Appeal No. 1452/2019
Marbad Hayat vs Govt

8

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.

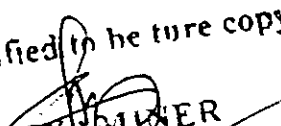
File be consigned to the record.


Chairman

ANNOUNCED

11.11.2019

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



To,

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

E-9

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 SPST (BPS-14) 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.

Dated: 20.04.2020

Your Obediently

Sadaqat Bibi
**SADAQAT BIBI, SPST
GGPS Jambal, Shangla**

ATTESTED
mb

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

Sadaqat Bibi

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Department

(RESPONDENT)
(DEFENDANT)

I/We Sadaqat Bibi

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2020



CLIENT



ACCEPTED
NOOR MOHAMMAD KHATTAK


MIR ZAMAN SAFI
ADVOCATES

OFFICE:
Flat No.4, 2nd Floor,
Juma Khan Plaza, Near FATA Secretariat,
Warsak Road, Peshpawar.
Mobile No.0345-9383141