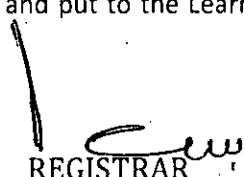



Form- A

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 16221 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/12/2020	<p>The appeal presented today by Mr. Shahzullah Yousafzai Advocate may be entered in the Institution Register and put to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>11/3/21</u></p> <p style="text-align: right;">MEMBER(J)</p>
01.03.2021		<p>The learned Member Judicial Mr. Muhammad Jamal Khan is on leave, therefore, the case is adjourned. To come up for the same before S.B on 26.07.2021.</p> <p style="text-align: right;"> Reader</p>

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

**APPEAL NO. \_\_\_\_\_/2020**

**AJMAL KHAN VS EDUCATION DEPARTMENT**

**INDEX**

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**APPELLANT**

THROUGH:

*Shahz*  
**SHAHZULLAH YOUSAFZAI  
ADVOCATE**

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

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 16221/2020

Entry No. 16813

Dated 21/12/2020

Mr Ajmal Khan S/O Said Amin Khan, PET (BPS-15), GHS Kamala, Dir  
Lower.....**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 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 and secondary Education Department as senior physical education teacher (BPS-15) quite efficiently and up to the entire satisfaction of their superiors.
- 2- That the Conveyance Allowance is admissible to all the Civil Servants and to this effect a Notification No. FD (PRC)1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees working in BPS 1 to 15 were enhance/revised while employees from BPS- 16 to 19 have been treated under the previous Notification by

Filed to-day

Registrar

21/12/20

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 employee of E&SE department approached to this august Tribunal against illegal deduction of conveyance allowance in ~~different service appeal which were allowed by this august Tribunal~~ vide its judgment dated 11.11.2019. Copy of the judgment is attached as annexure..... **D.**

5- That the appellant filed departmental appeal against the illegal action of deduction of conveyance allowance, but the same has not been responded by respondents within statutory period of ninety days. Copy of departmental appeal is annexed as annexure..... **E.**

6- That feeling aggrieved from action and inaction of the respondents and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

#### **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 governed by Government Servant Revised Leave Rules, 1981 while vacations are always announced by the Government, therefore under the law and Rules the appellant is fully entitle 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 discriminatory hence not tenable in the eye of law.

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 is 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**

  
**Ajmal Khan**

**THROUGH:**

  
**SHAHZULLAH YOUSAFZAI**

  
**KAMRAN KHAN ADOVCTAES**

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-1 to BPS-15) w.e.f from 1<sup>st</sup> 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

(Saahibzada Saeed Ahmad)  
Secretary Finance

**ATTESTED**

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

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

NO. FDSO/SR/1178-52/2012  
Dated Peshawar the 20-12-2012

From: The Secretary to Govt. of Khyber Pakhtunkhwa,  
Finance Department,  
Peshawar.

To: All Administrative Services to Govt. of Khyber Pakhtunkhwa,  
The Senior Member, Board of Revenue, Khyber Pakhtunkhwa,  
The Secretary to Government, Khyber Pakhtunkhwa,  
The Secretary to Chief Minister, Khyber Pakhtunkhwa,  
The Secretary, Financial Accounts, Khyber Pakhtunkhwa,  
All Heads of Attached Departments in Khyber Pakhtunkhwa,  
All District Coordination Officers, Khyber Pakhtunkhwa,  
As Polling Agents, Districts, Sessions Judges in Khyber Pakhtunkhwa,  
The Registrar, Peshawar High Court, Peshawar,  
The Chairman, Public Service Commission, Khyber Pakhtunkhwa,  
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  
and revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants, Govt.  
of Khyber Pakhtunkhwa (working in BPS-1 to BPS-19) with effect from 15 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 (PK)	REVISED RATE (PK)
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. 5,500/-	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.

Yours Faithfully,

(Sahibzad Saood Ahmad)  
Secretary Finance

Dated Peshawar the 20<sup>th</sup> December, 2012.

**TESTED**

A Copy is forwarded for information to the:-

1. Accounts General, Khyber Pakhtunkhwa, Peshawar.
2. Secretaries to Government of Punjab, Sindh, Balochistan, Federal Government.
3. All Superintendents, Semi Autonomous Bodies in Khyber Pakhtunkhwa.

MUNTAZ AYUBI

M.A.

**Dist. Govt. NWFP-Provincial**  
**District Accounts Office Dir at Timargar**  
**Monthly Salary Statement (August-2020)**

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B  
  
 (10)

**Personal Information of Mr AJMAL KHAN d/w/s of SAID AMIN KHAN**

Personnel Number: 00353520      CNIC: 1530746664963      NTN:  
 Date of Birth: 30.03.1978      Entry into Govt. Service: 16.11.2006      Length of Service: 13 Years 09 Months 017 Days

**Employment Category: Active Temporary**

Designation: PHYSICAL EDUCATION TEACHE      80001547-DISTRJCT GOVERNMENT KHYBE  
 DDO Code: DA6250-GHS KAMALA

Payroll Section: 001      GPF Section: 001      Cash Center: 10  
 GPF A/C No: 353520      Interest Applied: Yes      **GPF Balance:**      269,190.00

Vendor Number: 30350860 - AURANG ZEB 2561-5 NBP

**Pay and Allowances:**      Pay scale: BPS For - 2017      Pay Scale Type: Civil      BPS: 15      Pay Stage: 10

Wage type		Amount	Wage type		Amount
0001	Basic Pay	29,420.00	1000	House Rent Allowance	2,349.00
✓1210	Convey Allowance 2005 ✓	2,856.00 ✓	1300	Medical Allowance	1,500.00
1923	UAA-OTHER 20%(1-15)	1,000.00	2148	15% Adhoc Relief All-2013	600.00
2199	Adhoc Relief Allow @10%	410.00	2211	Adhoc Relief All 2016 10%	2,135.00
2224	Adhoc Relief All 2017 10%	2,942.00	2247	Adhoc Relief All 2018 10%	2,942.00
2264	Adhoc Relief All 2019 10%	2,942.00			0.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-2,890.00	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 August-2020: 0.00      Exempted: 0.00      Recoverable: 0.00

**Gross Pay (Rs.): 49,096.00      Deductions: (Rs.): -4,215.00      Net Pay: (Rs.): 44,881.00**

Payee Name: AJMAL KHAN

Account Number: CA 1710-0

Bank Details: NATIONAL BANK OF PAKISTAN, 231910 Bus Stand Batkhela Malakand Bus Stand Batkhela Malakand, Malakand

**Leaves:**      Opening Balance:      Availed:      Earned:      Balance:

**Permanent Address:**

City: TANGI PAYEEN ADENZAI      Domicile: NW - Khyber Pakhtunkhwa      Housing Status: No Official

Temp. Address:

City:      Email:



**Dist. Govt. NWFP-Provincial**  
**District Accounts Office Dir at Timargar**  
**Monthly Salary Statement (July-2020)**

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C



**Personal Information of Mr AJMAL KHAN d/w/s of SAID AMIN KHAN**

Personnel Number: 00353520    CNIC: 1530746664963    NTN:  
 Date of Birth: 30.03.1978    Entry into Govt. Service: 16.11.2006    Length of Service: 13 Years 08 Months 017 Days

**Employment Category: Active Temporary**

Designation: PHYSICAL EDUCATION TEACHE    80001547-DISTRICT GOVERNMENT KHYBE

DDO Code: DA6250-GHS KAMALA

Payroll Section: 001    GPF Section: 001    Cash Center: 10

GPF A/C No: 353520    Interest Applied: Yes    **GPF Balance:**    266,300.00

Vendor Number: 30350860 - AURANG ZEB 2561-5 NBP

**Pay and Allowances:**    Pay scale: BPS For - 2017    Pay Scale Type: Civil    BPS: 15    Pay Stage: 10

Wage type		Amount	Wage type		Amount
0001	Basic Pay	29,420.00	1000	House Rent Allowance	2,349.00
1300	Medical Allowance	1,500.00	1923	UAA-OTHER 20%(1-15)	1,000.00
2148	15% Adhoc Relief All-2013	600.00	2199	Adhoc Relief Allow @10%	410.00
2211	Adhoc Relief All 2016 10%	2,135.00	2224	Adhoc Relief All 2017 10%	2,942.00
2247	Adhoc Relief All 2018 10%	2,942.00	2264	Adhoc Relief All 2019 10%	2,942.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-2,890.00	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 July-2020:    0.00    Exempted: 0.00    Recoverable:    0.00

**Gross Pay (Rs.):    46,240.00    Deductions: (Rs.):    -4,215.00    Net Pay: (Rs.):    42,025.00**

Payee Name: AJMAL KHAN

Account Number: CA 1710-0

Bank Details: NATIONAL BANK OF PAKISTAN, 231910 Bus Stand Batkhela Malakand Bus Stand Batkhela Malakand, Malakand

Leaves:    Opening Balance:    Availed:    Earned:    Balance:

Permanent Address:

City: TANGI PAYEEN ADENZAI

Domicile: NW F Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

To

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

**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 PET (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. 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 am 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: .20.08.2020

Your Obediently

*Ajmal*  
Ajmal Khan

PET,GHS Kamala, Dir Lower.

**VAKALATNAMA**

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

\_\_\_\_\_ OF 2020

Ajmal Khan

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

\_\_\_\_\_ EDUCATION DEPTT: \_\_\_\_\_

(RESPONDENT)  
(DEFENDANT)

I/We

Ajmal Khan

Do hereby appoint and constitute **SHAHZULLAH YOUSAFZAI, 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

Ajmal  
CLIENT(S)

**ACCEPTED**  
**SHAHZULLAH YOUSAFZAI**

Shah &  
Kamran Khan  
**KAMRAN KHAN**  
ADVOCATES