Form- A FORM OF ORDER SHEET Court of_ 2020 Case No. Order or other proceedings with signature of judge Date of order S.No. proceedings 2 1 The appeal presented today by Mr. Shahzaullah Yousafzai 04/11/2020 1-Advocate may be entered in the Institution Register and put to the Learned Member for proper order please. REGISTRAR This case is entrusted to S. Bench for preliminary hearing to be put 2up there on 0/3/2/ MEMBER(J) The learned Member Judicial Mr. Muhammad Jamal Khan is 01.03.2021 on leave, therefore, the case is adjourned. To come up for the same before S.B on 26.07.2021. Reader ίζę.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR</u>

APPEAL NO. ____/2020

BAKHT MUHAMMAD VS EDUCATION DEPARTMENT

INDEX

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

APPELLANT

THROUGH:

SHAHZULLAH YOUSAFZAI ADVOCATE

Flat no 4, Upper Floor, Juma khan plaza near FATA secretariat, Warsak road, Peshawar 0302-8578851

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

'	PESHAWAR	Service Tribunal
	APPEAL NO. 13325/2020	Diary No. 14152
		Dated 4/11/2020
	Mr Bakht Muhammad S/O Bakht Rawan, PST	(BPS-12) Personal
	No.00810363, GPS Kasky Asbanr	, 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.

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED RESPONDENTS ACTION OF THE BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE THE APPELLANT DURING WINTER **SUMMER** OF & 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.

<u>R/SHEWETH:</u> ON FACTS:

- 1- That the appellant is serving in the elementary and secondary Education Department as senior primary school teacher (BPS-14) quite efficiently and up to the entire satisfaction of his 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

- 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 <u>of-deduction-of-conveyance-allowance-but-the-same-has-not-been-</u> 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.

GROUNDS:

- A- That the action and inaction of the respondents regarding deduction of conveyance allowance for vacations period/months is illegal, against the law, facts, norms of natural justice.
- B- That the appellant have not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the action of the respondents is without any legal authority, discriminatory and in clear violation of fundamental rights duly conferred by the Constitution and is liable to be declared as null and void.
- D- That there is clear difference between leave and vacation as leave is 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

40

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.

Ent Muthin

THROUGH: Shahzullah yousafzai & Kamran khan advocates BETTER COPY PAGE-

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGUALTION WING)

NO.FD/SO(SR-II)/52/2012 Dated Peshawar the: 20.12.2012

From

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

To:

1. All administrative Secretaries to Govt: of Khyber Pakhtunkhwa.

2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.

3. The Secretary to Governor, Khyber Pakhtunkhwa

4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.

5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa,

6. All Heads of attached Departments in Khyber Pakhtimkhwa

7. All District Coordination Officers of Khyber Pakhtunkhwa.

8. Al: Political Agents/District & Session Judge in Khyber Pakhtunkhwa

9. Tr. Registrar Peshawar High Court, Peshawar.

10. The Chairman Public Service Commission, Khyber Pakhtunkhwa,

11. The Chairman, Service Tribunal, Khyber Pakhtunkhwa:

Subject: <u>REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE</u> <u>CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL</u> <u>GOVERNMENT BPS-1-19</u>

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^{π} 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.	14		Rs. 1.700/-
	2	5-10	Rs. 1,500/-	Rs. 1.840/-
!	<u>.</u>	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

GOVERNMENT OF KHYBER PARHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO FOSCISR-IN-8-5712212 Dated Peshawarths: 20-12-2012

The Secretary to Gove of Knyber Pathturkhwa Finance Departmoni, Permawar.

All Administrative Second is to Gore of Ministry Relationships The Service Liembers Doed of Reverses, Phyloc, Pashed and a היי למוצביין IO CHELINE KHELE 200 1000 אויאפאלג אין אובנאפב מבביע באוגיוי אראואבי באנחינאמאנט

יבי איניונאבר וביינאי מביאל מיי איני איניין אינ As Policical Agents, District & Society Logestan Rister Politicality

್ ಸಕ್ಷಾನವರ್ ಗಿರ್ಮಾಜಗಳ್ಳಿ ವಿರುದ್ಧ ಶ್ರೀಮಾನ್

Ang Chairman, Rublic Genvice Conviction, Anyber Pokhtunkinga. The Chairman, Serrors Tribund, Kirpost Fakhterkinda.

3-5 ÷0 ·

REVISION IN THE PATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWE PROVINCIAL GOVERNMENT PPS 1-19

Dear St.

Feore:

The Government of Yhyber Postnerships been presented enhanced vervise one rate of Conveyorice Allowance admissible to all the Provinces Ovil Services a Nation Pethanetwa (Violance & EPS-110 205-15) wet from 1 Senember 2012 The following rates. However, the conveysitional silonates for employees in SPS+15 to SPS+19 utilizenter urkiningen.

• • • •			TOTAL TOTAL
S.NO	625	EXISTING RATE (PH)	(EVISED RALE (FIT
1	1	<u>231 200/-</u>	R <u>3.1.7007</u> -
	السياسية، ب _{الم} ارية الم		RC 1 840/-
2.	5-13	<u> </u>	
	11.15	1 <u>Ps.2.000</u> /-	RS.2.1201-
	<u> </u>	R5.5,000	R\$.5,000/-
-	15.19	- } : R <u>5,</u> 5,000£1 - <u> </u>	نى <u>بىيە بەلەردى چەر</u>

Conveyance Allowadice of the gapty rates both months shall be acreatible those SPG-17, 18 and 19 officers who have not been satisfied alfield with

AT. STER

Findsti NO. FIRSCHSR-TRA-522012

Sacralas France Uatel Featurite 21" Trecember, 21 -

Yours Fashiulia,

Sahibada Saco Ahmad

SL-1-

A Copy is larvareed for information to the

ישאיאר בראשוויים אשראיש אורבאי באיניים אינייים אינייים לארומים של האיז הביינים לא הייזים בייזי לא הייזים איזיים איזיים איזיים איזיים איזיים איזיים איזיים איזיים איזי גערמים איזיים גערמים איזיים איזיים

INTLAZ AYUB التحمير الديمان المحمر

District Account Monthly Salar Personal Information of Mr BAKHT MUHA Personnel Number: 00810363 CNIC: 1530 Date of Birth: 06.09.1994 Entry into G	269412593 ovt. Service: 24.0	BAKHT RAWAN 3.2016	Γ GOVERNMENT K	ears 02 Months 009 Days CHYBE
	BPS For - 2017	Pay Scale Type: Civ	vil BPS: 12	Pay Stage: 4
Wage type	Amount	V	Vage type	Amount
0001 Basic Pay	17,160.00	1000 House Rent	Allowance	1,961.00
1210 Convey Allowance 2005	2,856.00	1300 Medical Allo	wance	1,500.00
1923 UAA-OTHER 20%(1-15)	1,000.00	2148 15% Adhoc 1	Relief All-2013	350.00
2199 Adhoc Relief Allow @10%	226.00	2211 Adhoc Relie	f All 2016 10%	1,194.00
2224 Adhoc Relief All 2017 10%	1,716.00	2247 Adhoc Relief	f All 2018 10%	1,716.00
2264 Adhoc Relief All 2019 10%	1,716.00			0.00
Wage type 3012 GPF Subscription 3990 Emp.Edu. Fund KPK Deductions - Loans and Advances	Amount -2,220.00 -125.00	V3501Benevolent F4004R. Benefits &		Amount -600.00 -600.00
Loan Description		Principal amount	Deduction	Balance
Payee Name: BAKHT MUHAMAMD Account Number: 220093936 Bank Details: UNITED BANK LIMITED, 2117	ions: (Rs.):	-3,545.00	Net Pay: (Rs.):	verable: 0.00 27,850.00
Leaves: Opening Balance: Ava	ailed:	Earned:	Balance:	
Temp. Address:	cile: - l: bakht.zia.bm@g	mail.com	Housing Sta	utus: No Official
Sh			2	×.

7

System generated document in accordance with APPM 4.6.12.9(SERVICES/29.05.2020/23:41:32/v2.0) * All amounts are in Pak Rupees * Errors & omissions excepted

Dist. Govt. NWFP-Provincial District Accounts Office Dir at Timargar Monthly Salary Statement (February-2020) Image: Content of the second							
Wage type	Amount	-	Vage type	Amount			
0001 Basic Pay	17,160.00	1000 House Rent		1,961.00			
1300 Medical Allowance	1,500.00	1923 UAA-OTHE		1,000.00			
2148 15% Adhoc Relief All-2013	350.00		f Allow @10%	226.00			
2211 Adhoc Relief All 2016 10%	1,194.00	2224 Adhoc Relie		1,716.00			
2247 Adhoc Relief All 2018 10%	1,716.00	2264 Adhoc Relie		1,716.00			
Deductions - General Wage type 3012 GPF Subscription	-2,220.00	3501 Benevolent I	Vage type	Amount -600.00			
3990 Emp.Edu. Fund KPK	-125.00	4004 R. Benefits &	t Death Comp:	-600.00			
Deductions - Loans and Advances Loan Description		Principal amount	Deduction	Balance			
Deductions - Income Tax Payable: 0.00 Recovered till FEB-2020: 0.00 Exempted: 0.00 Recoverable: 0.00 Gross Pay (Rs.): 28,539.00 Deductions: (Rs.): -3,545.00 Net Pay: (Rs.): 24,994.00 Payee Name: BAKHT MUHAMAMD Account Number: 220093936 Bank Details: UNITED BANK LIMITED, 211786 UNIVERSITY CAMPUS U.B.L. KHITARI, Leaves: Opening Balance: Availed: Earned: Balance:							
Temp. Address:	icile: - l: bakht.zia.bm@	gmail.com	Housing Status:	No Official			

ņ

System generated document in accordance with APPM 4.6.12.9(SERVICES/16.03.2020/16:29:00/v2.0) * All amounts are in Pak Rupees * Errors & omissions excepted

.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRISUNA PESHAWAR

APPEAL NO. 1452 /2019

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

VERSUS

APPELLAN

- 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.

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

PRAYER:

2-4/10/19

Pece Tribunal.

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 Fledte-day previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in Registrar favor of the appellant.

R/SHEWETH: ATTESTON FACTS:

ATTED

1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency KIND Pakking and up to the entire satisfaction of the superiors.

2- That the Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. That later ion vide revised Notification dated. 20.12.2012 whereby the conveyance allowance for employees

State State of the state of the

Appeal No. 1452/2019 Markad Hayat vs Govt

11.11.2019

Certified th he ture copy

makiwa

iceAnbural. Shawar 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.

Chairman

File be consigned to the record. ATTESTED

ANNOUNCED

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

				<u> </u>		
Subject:	DEPARTMENT	AL APPEAL	AGAINST	THE	(MPUGN)	<u>ED</u>
• •	ACTION OF	THE CON	CERNED	AUTHO	RITY	BY
	ILLEGALLY	AND UNLAV	VFULLY	DEDUCT	ING T	HE,
	CONVEYANCE	ALLOWAN	CE DURI	NG W	INTER	&
	SUMMER VACA	ATIONS				li ag

F-10

Respected Sir,

With due respect it is stated that I am the employee of your good self. Department and is serving as PST (BPS- 12) quite efficiency and up to the entire satisfaction of the superiors. It is stated for kind information that Conveyance Allowance is admissible to all the civil servants and to this effect a Notification⁴ 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: .23.07.2020



ur Obediently avet Bakht Muhammad PST, GPS Kasky Asbanr, Dir lower.

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

OF 2020

(APPELLANT) Baknt Mahermand (PLAINTIFF) (PETITIONER)

VERSUS

EDUCATION DEPTT:

I/We <u>Rayhk Muhomman</u> 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

Berkht

(RESPONDENT)

(DEFENDANT)

ACCEPTED SHAHZULLAH YOUSAFZAI CAMRAN KHAN

ADVOCATES