Form- A FORM OF ORDER SHEET

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	Date of order proceedings	Order or other proceedings with signature of judge
1	2.	3
1-	29/01/2021	The appeal presented today by Syed Noman Ali Bukhari
		Advocate may be entered in the Institution Register and put to the Learned
		Member for proper order please.
	1	REGISTRAR
7 _		This case is entrusted to S. Bench for preliminary hearing to be put
2-	08-02-21	up there of -03-21
	*	
v ()		
		MEMBER(J)
	.03.2021	The learned Member Judicial Mr. Muhammad Jamal Kha
		leave, therefore, the case is adjourned. To come up for ne before S.B on 26.07.2021. Reader
-	,	
		· ·

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO.		/2021.
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MIAN SHAH JEHAN

VS

EDUCATION DEPTT:

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APPELLANT

THROUGH:

SYED NAUMAN ALI BUKHARI ADVOCATE PESHAWAR

Note: Sir,

Spare copies will be submitted After submission of the case.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1827/2021

Khyber Pakhtukhv Service Tribunal	V:

MR. MIAN SHAH JEHAN, PSHT (BPS-15)

_____ DISTRICT NOWSHERA
APPELLA

Diary No. 2066

Dated 29/1/2021

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.
- 6. The District Education Officer, Male, Nowshera.

.....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 leafto-dagcations 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 **PSHT** (**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

- 5. That some of teachers of different pay scale approached to this august Tribunal in different service appeals which allowed by this august tribunal vide its Judgment No 1452/2019 titled Maqsad Hayat versus Education Department Dated 11-11-2019...... E.
- 6. That the appellant also prayed to be treated through the principals of consistency for allowing such relief which was granted in appeal No. 1452/2019 titled Maqsad Hayat versus Education Department in Judgement Dated 11.11.2019.
- 7. That where after the appellant waited for the statutory period of ninety days but no reply has been received from the respondents. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

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 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 aspect 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 under the golden principals of consistency.

APPELLANT

سان بمران MIAN SHAH JEHAN

THROUGH:

SYED NAUMAN ALI BUKHARI ADVOCATE PESHAWAR



Government of Khyber Pakhtunkhwa PINANCE DEPARTMENT (REGULATION WING)

NO. FD/SO/8R-II/8-62/2012 Dates Printing the: 20-12-2012

From

The Secretary to Govt, of Khyber Paintunktives.

Firming Department,

Esalveuer.

To:

All Administrative Secretaries to Govt. of IChiber Peluharathwa.

The Senior Member, Board of Revenue, Knyber Pakhtunidwa.

. 3.

The Secretary to Governor Khyber Pakhturatava. The Secretary to Chief Minuter, Khyber Pakhturatava.
The Secretary, Provincial Assembly, Khyber Pakhturatava. 4

6 G. All Heeds of Attached Departments in Knyber Palutainthwa.

7. All District Coordination Officers in Klypor Patchimiding.

A A# Political Agents / Clistrict & Sessions Judges in Klyber Paktersidnes

8. The Registrar, Peshawar High Coopt, Peshawar.

10 The Chairman, Public Service Communitor, Khyber Pakhrunkhwa.

The Charmen, Services Tribunal Kinyon: Pakhingkines.

Subject

REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVEL EMPLOYEES OF THE KHYBER PAKHTURKHWA, PROVINCIAL GOVERNMENT \$75 1-19

Dear St.

The Government of Khyber Pakhtunkhwa has been pleased to enhance / mayise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants, Gover of Knyber Pakhitunkhwa (working in EPS-1 to EPS-15) w.e.f from 1" September, 2012 at the following rates. However, the conveyance allowance for employees in GPS-16 to BPS-19 Will remain " unchanced.

S.NO BPS	EXISTING RATE (PM)	REVISED RATE (PH)
1. 1-4	Rs.1.500/-	Rs-1,700/-
2 5-10	Rs.1,500/-	Rs.1,840/-
3 11-15	Rs.2,000/-	R4.2,720/-
4. 16-19	Rs.5,000/-	. Rs.5,000/-

Conveyance Allowance at the above rates per month shall be admissible to those BPS-17, 15 and 19 officers who have not been sunctioned ufficial vehicles.

Yours Fathlully.

(Sahibzada Seead Ahmad) Secretary Finance

Ender: NO. FE/SO(ER-15)/8-52/1013

Dated Pediumur the 20th December, 2017

A Copy is forwarded for information to the:-

Accountant Control. Kinyber Politications, Prohimer. Secretaries to Government of Punjsty, Sinds & Subcheton. Finance Department 2 Secretaries in Government or marget, or an All Autonomous James All Autonomous James Autonomous Backet in Kinyoer Palifibrations.

7 -

IMITIAZ AYUBI

Additional Secondary (Read)

_ **於**·

Dist. Govt. NWFP-Provincial District Accounts Office Nowshera Monthly Salary Statement (June-2019)





Personal Information of Mr MIAN SHAH JEHAN d/w/s of MIAN SAID REHMAN

Personnel Number: 00138910

CNIC: 1720121550777

Date of Birth: 25.05.1968

Entry into Govt. Service: 05.12.1992

Length of Service: 26 Years 06 Months 027 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL HEAD TEACH

80003682-DISTRICT GOVERNMENT KHYBE

DDO Code: NR6010-DY: DISTT OFFICER (M) NSR

Payroll Section: 001

GPF Section: 001

Interest Applied: Yes

Cash Center: 3

GPF Balance:

452,921.00

GPF A/C No: EDUNS001436 Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 15

Pay Stage: 21

Waga tuna	Aynount	Wage type	Amount
Wage type	44,050.00	1000 House Rent Allowance	2,349.00
001 Basic Pay 210 Convey Allowance 2005	2,856.00	1300 Medical Allowance	1,500.00
148 15% Adhoc Relief All-2013	979.00	2199 Adhoc Relief Allow @10%	682.00
211 Adhoc Relief All 2016 10%		2224 Adhoc Relief All 2017 10%	4,405.00
2217 Adhoc Relief All 2018 10%	4,405.00		0.00

Deductions - General

	Amount	Wage type	<u>Amount</u>
Wage type		3501 Benevolent Fund	-600.00
3015 GPF Subscription - Rs2890		3990 Emp.Edu. Fund KPK	-125.00
3609 Income Tax	_	3970 Limp.Data: 1 and 12 22	0.00
4004 D Renefits & Death Comp:	-1,052.00	<u> </u>	

Deductions - Loans and Advances

	<u> </u>			
		T : : : : :	Deduction '	Balance
1 7 1	Description	Principal amount	Deduction	
i Loan i	Description			

Deductions - Income Tax

Pavable:

1,000.00

Recovered till JUN-2019:

600.00

Exempted: 400.00

Recoverable:

0.00

Gross Pay (Rs.):

64,705.00

Deductions: (Rs.):

-4,717.00

Net Pay: (Rs.):

59,988.00

Payee Name: MIAN SHAH JEHAN

Account Number: PLS000000013628

Bank Details: NATIONAL BANK OF PAKISTAN, 230824 TARU JABA TARU JABA, PESHAWAR

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: SDEO MALE NOWSHERA

City: NOWSHERA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: mianshahj@gmail.com

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





Personal Information of Mr MIAN SHAH JEHAN d/w/s of MIAN SAID REHMAN

Personnel Number: 00138910

CNIC: 1720121550777

NTN:

Date of Birth: 25.05.1968

Entry into Govt. Service: 05.12.1992

Length of Service: 26 Years 08 Months 028 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL HEAD TEACH

80003682-DISTRICT GOVERNMENT KHYBE

DDO Code: NR6010-DY: DISTT OFFICER (M) NSR

Cash Center: 3

Payroll Section: 001

GPF Section: 001

521,414.00

GPF A/C No: EDUNS001436

Interest Applied: Yes

GPF Balance:

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 15

Pay Stage: 21

Wage type	Amount	Wage type	Amount
	44,050.00	1000 House Rent Allowance	2,349.00
0001 Basic Pay	1,500.00	2148 15% Adhoc Relief All-2013	979.00
300 Medical Allowance	682.00	2211 Adhoc Relief All 2016 10%	3,479.00
2199 Adhoc Relief Allow @10%	4.405.00	2247 Adhoc Relief All 2018 10%	4,405.00
2224 Adhoc Relief All 2017 10%		ZZTI I I I I I I I I I I I I I I I I I I	0.00
2264 Adhoc Relief All 2019 10%	4,405.00		

Deductions - General

**************************************	Amount	Wage type	Amount
Wage type	-2,890.00	3501 Benevolent Fund	-600,00
3015 GPF Subscription	-481.00	3990 Emp.Edu. Fund KPK	-125.00
3609 Income Tax	-1,052.00	·	0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

9,609.55 Payable:

Recovered till AUG-2019:

962.00

Exempted: 3843.25

Recoverable:

4,804.30

Gross Pay (Rs.):

66,254.00

Deductions: (Rs.):

-5,148.00

Net Pay: (Rs.):

61,106.00

Payee Name: MIAN SHAH JEHAN

Account Number: PLS000000013628

Bank Details: NATIONAL BANK OF PAKISTAN, 230824 TARU JABA TARU JABA, PESHAWAR

Leaves:

Opening Balance:

Availed:

Earned:

Balance.

Permanent Address: SDEO MALE NOWSHERA

City: NOWSHERA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: mianshahj@gmail.com

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



Personal Information of Mr MIAN SHAH JEHAN d/w/s of MIAN SAID REHMAN

Personnel Number: 00138910

CNIC: 1720121550777

NTN:

Date of Birth: 25.05.1968

Entry into Govt. Service: 05.12.1992

Length of Service: 26 Years 09 Months 027 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL HEAD TEACH

80003682-DISTRICT GOVERNMENT KHYBE

DDO Code: NR6010-DY: DISTT OFFICER (M) NSR

GPF A/C No: EDUNS001436

Cash Center: 3

Payroll Section: 001

GPF Section: 001

Interest Applied: Yes

GPF Balance:

524,304.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 15

Pay Stage: 21

Amount	Wage type	Amount
	1000 House Rent Allowance	2,349.00
		1,500.00
		682.00
		4,405.00
		4,405.00
	Amount 44,050.00 2,856.00 979.00 3,479.00 4,405.00	44,050.00 1000 House Rent Allowance 2,856.00 1300 Medical Allowance 979.00 2199 Adhoc Relief Allow @10% 3,479.00 2224 Adhoc Relief All 2017 10%

Deductions - General

N Armo	Amount	Wage type	Amoùnt
Wage type	-2,890.00	3501 Benevolent Fund	-600.00
3015 GPF Subscription		3990 Emp.Edu. Fund KPK	-125.00
3609 Income Tax	-600.00	3570 22	0.00

Deductions - Loans and Advances

		Bringing amount	Deduction	Balance	
Loan	Description	Principal amount	Deduction	Durantet	

Deductions - Income Tax

Payable:

11,037.55

Recovered till SEP-2019:

1,529.00

Exempted: 4414.01

Recoverable:

5,094.54

Gross Pay (Rs.):

69,110.00

Deductions: (Rs.):

-4,782.00

Net Pay: (Rs.):

64,328.00

Payee Name: MIAN SHAH JEHAN

Account Number: PLS000000013628

Bank Details: NATIONAL BANK OF PAKISTAN, 230824 TARU JABA TARU JABA, PESHAWAR

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: SDEO MALE NOWSHERA

City: NOWSHERA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: mianshahj@gmail.com

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 PSHT (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-I to 15 were enhance/revised while employees from BPS-15 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 the august K.P.K service tribunal also allowed the restoration of the conveyance allowance in its judgment dated 11.11.2019 in appeal No 1452/2019 titled Magsad Hayat versus Education Department. Copy attached. 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.

Date 23/10/20

Your Obediently

ستراه بمان MIAN SHAH JEHAN

ATTESTED

TUNKHWA SERVICE TRIBUNAL BEFORE THE KHYBER PESHAWAR

> APPEAL NO. 1452 /2019

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

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 UDNER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED BY ILLEGALLY AND RESPONDENTS ACTION OF THE UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE WINTER DURING APPELLANT_ VACATIONS AND AGAINST NO ACTION TAKEN DEPARTMENTAL APPEAL OF APPELLANT WITHIN 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 Fredto-daypreviously 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: ON FACTS:

1- That the appellant is serving in the elemeritary 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 ion vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

Affect No. 1452/2019
Markad Hayat VS Govt: 122 (F)
Counsel for the appellant present.

11:11.2019

Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter

vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in

the case of appellant.

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 regord.

<u>ANNOUNCED</u>

11.11.2019

ST.

PolitaWar

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

	OF 2021 (APPELLANT)		
MIAN SHAH JEHAN	t	(PLAINTIFF) (PETITIONER)	
<u>VERSUS</u>	;		
	((RESPONDENT)	
Education Department		(DEFENDANT)	
I/We MIAN SHAH JEHAN appoint and constitute SYED NAUMAN ALI Be appear, plead, act, compromise, withdraw or my/our Counsel/Advocate in the above noted in default and with the authority to engage/appoint my/our cost. I/we authorize the said Advocate to my/our behalf all sums and amounts payable or above noted matter.	refer to arbinatter, withount natter, withount nt any other odeposit, wit	tration for me/us as at any liability for his Advocate Counsel on hdraw and receive on	
		Jugolin CLIENT	

SYED NAUMAN ALI BUKHARI

ADVOCATE PESHAWAR