FORM OF ORDER SHEET

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Court of		•	
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Case No	M 5 / 1/2020	
Date of order proceedings	Order or other proceedings with signature of judge	
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	The appeal presented today by Mr. Ilmar Farong, Advocate i	may
18/11/2020		
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	proper order please.	
	REGISTRAR	
	This case is entrusted to S. Bench for preliminary hearing to be	put
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\ \frac{1}{2}	MEMBER(I)	
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03 2021	The learned Member Judicial Mr. Muhammad Jamal I	(ham
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	Date of order proceedings 2 18/11/2020 03.2021 on sa	Date of order proceedings 2 3 The appeal presented today by Mr. Umar Farooq Advocate to be entered in the Institution Register and put to the Learned Member proper order please. This case is entrusted to S. Bench for preliminary hearing to be up there on Ollosial MEMBER(J)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO.	_/2020.

MR. FAIZ UL HAQ VS EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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3.	Pay Slips	B&C	5-6
4.	Departmental Appeal	D	7
5.	Service Tribunal Judgment	E	8-9
6.	Vakalat nama		10

فينعل اكتى APPELLANT

THROUGH:

UMAR FAROOQ

ADVOCATE

CELL NO. 03138901647.

Note:

Sir,

Spare copies will be submitted After submission of the case.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 14377/2020

Khyber Pakhtukhwa Service Tribunal

MST. FAIZ UL HAQ CT (BPS-15) GHS, SANGA TAKHT BHAI DISTRICT MARDAN Personnel. Number: 00131754

Date 18/11/202

......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 **CT (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.

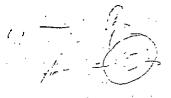
APPELLANT

FAIZ UL HAQ

THROUGH:

UMAR FAROOQ ADVOCATE







GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO. FD/SC(SR-11)-8-57/2012 Dated Peshayaantha; 20-12-2012

From

The Secretary to Gowl, of Khyber Pachtunkowa. Finance Department. Perhayear.

Tor

All Adaminiation for materies to Govern Region Paketonistors.

The Sanior Member, Boyal of Revenue, Kneber Pakhtuariasa...

The Secretary to General Milyber Pekinganesis

. The Secretary to Chief Moster, Klyber Pakhamidwa.

Ξ. The Secretary, Pravincial Ascensiy, Kiriber Palallerkinsa

All Heads of Attaches Departments in Knines Pakirun Visia Ağ Öistrick Coordination Öfficere a Xiyesir Pakitenkines.

All Political Agents / District & Semicos Judges in Kityter Pablisations

The Registral Peshapart HybrCost. Peshawar

The Chairman, Public Service Corression, Khyber Pakhiunkhwa.

The Chairman, Services Tribunal, Kitybar Pakhlunahwa.

Saff, etc.

REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL GOVERNMENT BP5 1-19

Dear Sir.

The Government of Khytiet Pokhturáhyz has baza pleásed to enhance / revise the rate of Conveyonor Allowance admissible to all the Provincial Civil Servantial Covid र्ज Kryber Pexhtunkhwa (violking in EPS-1 to EPS-15) w.e.f from 1º September, स्थ्रीय स the following rates. However, the conveyance allowance for employees in BRS-19 to BPS-19 भौं त्रात्यम 🕒 प्रद्रात्वावुक्ये.

S.NO	ธยร	EXISTING RATE (PH)	REVISED RATE (PM)
1.	1-4	₹\$.``,\$00/-	Rs.1,700/=
2.	5-10	9s.1,500/-	Rs.1.840/-
3,	11+15	Ps.2,000/-	Rs.2,720/-
<u> </u>	15-10	85.5.000/-	Rs.5.000/≈ :

Conveyance Allowance at the above rates per invente shall be admissible to Those BPG-17, 48 ánd 19 difitest who have not been sandicided cilidial vehicles.

Yours Failhfully,

(Sahibzada Sabod Alygad) Secretary Figures

Endigit NO. HINSOIST-11784-5242012

Dated Pessawar the 20th December, 2017

A ដីចក្ខម្ម នៃ ខែកុម្ភាគរិជនថ for information to the:-

Assessment General Kander Pakintekhese Preligings

Secretaries to Geleconomical of Punjab, South & Spicylesian, Farance Department

All Automotivous / State Automotivous Booles in Kingbig: Pakhturakhtes

- Azialimos (Recenisar Illin

N A-H

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 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 in the rate of Conveyance Allowance admissible to all the Provincial Civil Servants Gove of Khyber Pakhtunkhwa (working in BPS-1 to BPS-15) welf 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 (PNI)
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 vehicle.

Your Faithfully

(Sahibzada Saeed Ahmad) Secretary Finance

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

X.S.D



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



Personal Information of Mr FAIZ UL HAQ d/w/s of HABIB UL HAQ

Personnel Number: 00131754

Date of Birth: 20.04.1974

CNIC: 1610222850921

Entry into Govt. Service: 25.10.2004

NTN: 0

Length of Service: 14 Years 09 Months 008 Days

Employment Category: Active Permanent

Designation: CERTIFICATED TEACHER

80003511-DISTRICT GOVERNMENT KHYBE

DDO Code: MR6117-PRINCIPAL G.H.S SANGA TAKHT BHAI MA

Payroll Section: 003

GPF Section: 001

Cash Center: 2

269,645.00

GPF A/C No: 131754

GPF Balance: Interest Applied: Yes

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 15

Pay Stage: 10

Wage type		Amount	Amount Wage type		Amount	
0001	Basic Pay	29,420.00	1000	House Rent Allowance	2,349.00	
1300	Medical Allowance	1,500.00	2148	15% Adhoc Relief All-2013	550.00	
2199	Adhoc Relief Allow @10%	397.00	2211	Adhoc Relief All 2016 10%	2,247.00	
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 - Rs2890	-2,890.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp:	-1,052.00

Deductions - Loans and Advances

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1 _ : 1				
Loan	Description	Principal amount	Deduction .	Balance
Louin	Description	1 Tincipai amoune		Dulance

Deductions - Income Tax

Payable:

0.00

Recovered till JUL-2019:

0.00

Exempted: 0.00

Recoverable:

0.00

Gross Pay (Rs.):

45,289.00

Deductions: (Rs.):

4,667.00

Net Pay: (Rs.):

40,622.00

Payee Name: FAIZ UL HAQ

Account Number: 1748-0

Bank Details: MCB BANK LIMITED, 240310 TAKHAT BHAI TAKHAT BHAI,

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: VILL AND PO PIR SADDI TEHT BAI DISTT MAR

City: MARDAN

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: faizulhaqmrdn@gmail.com

C 6

Dist. Govt. NWFP-Provincial District Accounts Office Mardan Monthly Salary Statement (April-2020)



Personal Information of Mr FAIZ UL HAQ d/w/s of HABIB UL HAQ

Personnel Number: 00131754

CNIC: 1610222850921

NTN: 0

Date of Birth: 20.04.1974

Entry into Govt. Service: 25.10.2004

Length of Service: 15 Years 06 Months 007 Days

Employment Category: Active Permanent

Designation: CERTIFICATED TEACHER

80003511-DISTRICT GOVERNMENT KHYBE

DDO Code: MR6117-PRINCIPAL G.H.S SANGA TAKHT BHAI MA

Payroll Section: 003

GPF Section: 001

Cash Center: 2

GPF A/C No: 131754

Interest Applied: Yes

GPF Balance:

331,653.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 15

. Pay Stage: 11

	Wage type	Amount		Wage type	Amount
0001	Basic Pay	30,750.00	1000	House Rent Allowance	2,349.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	550.00	2199	Adhoc Relief Allow @10%	397.00
2211	Adhoc Relief All 2016 10%	2,247.00	2224	Adhoc Relief All 2017 10%	3,075.00
2247	Adhoc Relief All 2018 10%	3,075.00	2264	Adhoc Relief All 2019 10%	3,075.00

Deductions - General

Wage type		Amount Wage type		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

	• 1 1111			
Loon	Description	Dringing amount	Dadwatian	Dalamas
Loan	Description	Principal amount	Deduction	Balance
			·	

Deductions - Income Tax

Payable:

0.00

Recovered till APR-2020:

0.00

Exempted: 0.00

Recoverable:

0.00

Gross Pay (Rs.):

49,874.00

Deductions: (Rs.):

-4,215.00

Net Pay: (Rs.):

45,659.00

Payee Name: FAIZ UL HAQ Account Number: 1748-0

Bank Details: MCB BANK LIMITED, 240310 TAKHAT BHAI TAKHAT BHAI,

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: VILL AND PO PIR SADDI TEHT BAI DISTT MAR

City: MARDAN

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: faizulhaqmrdn@gmail.com

ATTESTED

* All amounts are in Pak Rupees * Errors & omissions excepted

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

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION OF THE CONCERNED AUTHORITY BY **ILLEGALLY** AND **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 CT (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.

Dated: 20.07.2020

Your Obediently

FAIZ UL HAQ

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUN PESHAWAR : APPEAL NO. 1457 /2019

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

VERSUS

1- The Government of Knyber 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&SÉ) Department, Khyber Pakhtunkhwa, Peshawar.

.....RESPONDENTS

APPEAL UDNER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED THE RESPONDENTS BY ILLEGALLY UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST NO ACTION TAKEN ON THE 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 Conveyance allowance which have been deducted Figedia-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: ON FACTS:

27 /96/106

- 1- That the appellant is serving in the elementary and esecondary 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

Appeal No. 1452/2019 Marbad Hayat is Gost 1: 122 (F)

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 regord.

ANNOUNCED

11.11.2019

Al ZESZ

Chairman

Pesitawaj

Careffer?

<u>VAKALATNAMA</u>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

· ·			OF 2020
•			
	• •		(APPELLANT)
FAIZ UL HAQ			_(PLAINTIFF)
	·		(PETITIONER)
		<u>VERSUS</u>	
	•		(RESPONDENT)
Education Depar	tment		(DEFENDANT)
Counsel/Advocate and with the authors. I/we authors	UMAR FAROOQ vithdraw or re te in the above n thority to engage, rize the said Advo	fer to arbitrat oted matter, with /appoint any othe ocate to deposit, w	do hereby appoint shawar to appear, plead, act, ion for me/us as my/our nout any liability for his default er Advocate Counsel on my/our withdraw and receive on my/our on my/our account in the above.
	* .		عبوا (کق
			CLIENT

ACCEPTED 7