Form- A

FORM OF ORDER SHEET

Court of			

S.No.	Date of order proceedings	Order or other proceedings with signature of judge	
1	. 2	3	
1-	24/05/2021	The appeal presented today by Mr. Hassan Gul Advocate may be entered in the Institution Register and put to the Worthy Chairman for	
		proper order please.	
-		REGISTRAR	
2-		This case is entrusted to S. Bench for preliminary hearing to be put	
		up there on $18/06/2$	
	*		
-		CHAIRMAN	
-			

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. $\frac{5272}{2021}$

ALIYA TAMANNA

·VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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3.	Pay slips	В & С	5-6
4.	Departmental appeal	D	7
5.	Service Tribunal judgment	E	8-9
6.	Vakalat nama		10

APPELLANT

THROUGH:

HASSAN GUL ADVOCATE HIGH COURT CELL NO 0314-9959940

Note: Sir,

Spare copies will be submitted.

After submission of the case.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 5278/2021

Khyber Pakhtukhwa Service Tribunal

Mrs. ALIYA TAMANNA, SS (BPS-17) GGHS, GANDERI, CHARSADDA

Personnel Number: 00864195

Diary No.

活力数

.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 SERVICES TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS WHO VIDE THE SAME ARE ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST IN ACTION OF THE DEPARTMENTAL APPEALLATE AUTHORITY WHO VIDE THE SAME DID NOT PASS ANY APPROPRIATE ORDER OVER THE DEPARTMENTAL APPEAL OF THE APPEALLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be ordered/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 remedy 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 **SUBJECT SPECIALIST BPS-17** 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

- 6- That the appellant also prayed to be treated alike through the principles of consistency for allowing such relief which was granted in appeal No 1452/2019 titled Maqsad Hayat versus Education Department in Judgment 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 has not been treated by the respondent Department in accordance with law and Rules on the subject noted above and as such the respondents have violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned action of the respondents is without any legal & lawful 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.

- 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 lawful 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 appellant from the conveyance/allowance is unconstitutional and clear violation of fundamental rights.
- H-That according to Government Servants Revised Leave Rules, 1984 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 appellant seeks permission of this Honorable Tribunal 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 ALIYA TAMANNA

THROUGH:

HASSAN GUL ADVOCATE HIGH COURT

激烧



GOVERNMENT OF KNYBER PARMITUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO. FD/SO(SR-II)/8-52/2012 Dated Pashawar the: 20-12-2012

From

The Secretary to Govt, of Knytter Pakhtunkhwa.

Finance Department.

Penhawar.

To:

All Administrative Scotteries to Govern of Kiryter Pakhturishwa.

The Senior Member, Bosed of Reserves, Myder Pakhtubidsea.

The Secretary to Governor Knyber Pawallenawa

The Secretary to Chief Minwer, Khyber Pakhtankhwa!

5. The Secretary, Provincial Ayrembly Khyber Pakhlunkhava

All Heads of Áttaches Departuratils in Knyber Pakhtunkhwa.
 All District Coordination Officerate Stydes Pakhtunkhwa.

As Polincal Agents (District & Samlons Judges in Kitister Pakitsigikhwa

The Registry, Pastavar High Costs, Peshings

The Charman, Public Service Convertsion, Ahaber Pakhtunkiwaa.

The Charmain Benezes Tribend Krybar Fakhlunkhiya:

Subject.

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

Desc Sir.

The Government of Khyter Pakhturkhyla has been pleased to enhance of revisit me rate of Conveyance Allowance admissible to all the Provinces Civil Servants; Govillow phyther Pakhtunkhyla (Working in 1875-11 to BPS-11) W.e.f from 1° September, 2012 at the following rates. However, the conveyance allowance for employees in BFS-15 to BPS-19 will remain concerning.

Š.NO	BPS	EXISTING RATE (PM)	REVISED RATE (PM)
1.	1-4	8s.1,500/-	Rs.1.700/-
2.	5-10	Ps 1,500/-	Rs.1,840/-
3.	11-15	95.2,000	Rs.2,720/-
<u>=</u>	16-19	৪১.5,৫00/-	Rs.5,000/-

2 Conveyance: Allowance at the above rates per month shall be admissible to those BRS-17, 18 and 19 offices who have not been sangtioned afficial vehicles.

Yours Fashfully,

(Sahibzada Sacod Alymad) Secretary Finance

Endyte NO. FDESOVSIG-THIS-52/2012

Dated President the Ind Determber, 2017

A Copy is forwarded for information to the:-

Accountant General Konder Pakhtgerktore, Peshawan

Secretaries to Government of Puntable Social & Soligonscient Fenerale Dypentment

3 All Autoromous / Semi Autonomous Bodies in Yarper Pakhtankhwa

(INTIAZ AYUB)

Administration Services (Reg.)



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/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 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

We be always

5 2021 1/2/4 Charsadda Charsadda 3#:16 P Sec: 001 Month: Narch 2021 P Sec: QOi Month: March 20: CA6094 - PRINCIPAL COVERNMENT GIRLS HEAD MISTRESS COUT GIRLS Buckle: HÉAD MISTRESS GOUT GIRLS Buckle: HTH: ALIYA TAHAHKA ALIYA TAMANNA SUBJECT SPECIALIST URDU CPF 4: EDCA004630 014 4: 99993192709 GPF 6: EDCA004630 01d 0: 99993192709 SUBJECT SPECIALIST UROU CRIC No.1710103144250 CNIC No.1710103144250 GPF Interest Applied
17 Active Temporary
PAYS AND ALLUMANCES:
2265-Adhoc Relief All 2019 05% GPF Interest Applied 17 Active Temporary PAYS AND ALLUMANCES: CA6094 CA6094 0001-Dasic Pag 3,358.00 67,170,00 1000-House Rent Allowance 433.00 1210-Convey Allowance 2005 . 000.00 1947-Medical Allow 15% (16-22) 2148-15% Adhoc Relief All-2013 2199-Adboc Relief Allow 810% 2211-Adhoc Relief All 2016 10% 2224-Adhoc Relief All 2017 10% 2247-Adhoc Relief All 2018 10% 6,717.00 Gross Pag and Allowances DEDUCTIONS: Gross Pay and Allowances 102,210.00 102,210.00 II Pagable 6,067.44 Deducted .IT Payable TAX: (3609) 2,023.00 6,067,44 Deducted 17,344.00 SPF Galance 1162,834.00 3501-Benevolent Fund 4,270.00 GPF 8alance 1162,834.00 Subre: Supre. 1,500.00 250.00 3990-Enp. Edu. Fund KPK 4004-R. Denefits & Death Comp: 900.00 Total Deductions Total Deductions 8,943.00 Tra to 93,267.00 93,267.00 र एम्_रक्क LFP Quota: LFP Quota: D. U. B 0.0.8 HCB BANK LINITED CHARSADA 05.10.1975 MCB BANK LIHITED CHARSADA 05.10.1975 24 Years OS Nonths 002 Days 24 Years OS Months 002 Days PLS00000006793-1 FLS00000006793-1

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Pers #: 00151006 Buckle: Mane.

ALIYA TOMANNO MRS SUBJECT SPECIALIST URBU

CNIC No. 1710103144250

GPF Interest Applied

17 Active Temporaru PAYS AND ALLUHANCES:

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1947-Medical Alloy 15% (16-22) 2148-15% Adhoc Relief All-2013

2199-Adboc Relief Allow 810% 2211-Adhoc Relief All 2016 10%

2224-Adhoc Relief All 2017 10% 2247-Adhoc Relief All 2018 10%

2265-Adhoo Relief All 2019 05% Gross Pae and Allowances

DEDUCTIONS:

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3990-Enp. Edu. Fund KFK 4004-R. Benefits & Death Comp:

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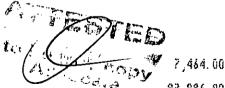
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The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION 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 SS (BPS-17) 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 ion 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-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 convence allowance in its judgment dated 11.11.2019 in appeal No 1452/2019 titled Maqsad Hayat versus Education Derpartment. 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: 19.01.2021

Your Obediently

ALIYA TAMANNA

BEFORE THE KHYBER PAKHTUNKHWA SEKVICE TRIBUNAL

PESHAWAR

APPEAL NO. 1457 / 2019

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

Bared 24 10/201

VERSUS

1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.

2- The Secretary (#&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 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.

R/SHEWETH: ON 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 ion vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees.

7-11/18/19

11.11.2019

Counsel for the appellant present.

Hiller No 145 -/ 2011

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

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ertilley.

ANNOUNCED

11.11.2019

11 4/3

Chairman

VAKALATNAMA

(APPELLANT) ALIYA TAMANNA (PLAINTIFF) (PETITIONER) VERSUS (RESPONDENT) Education Department (DEFENDANT) I/We ALIYA TAMANNA do hereby appoint and constitute HASSAN GUL, Advocate, High Cour Peshawar to appear, plead, act, compromise, withdraw or refer to arbitratic for me/us as my/our Counsel/Advocate in the above noted matter, witho any liability for his default and with the authority to engage/appoint any oth Advocate Counsel on my/our cost. I/we authorize the said Advocate to depos withdraw and receive on my/our behalf all sums and amounts payable deposited on my/our account in the above noted matter. Dated//2021 ACCEPTED HASSAN GUL ADVOCATE	BEFORE THE KHY	BER PAKHTUNKH	WA SERVICE TIE	BUNAL, PESHAWAR
ALIYA TAMANNA (PLAINTIFF) (PETITIONER) VERSUS (RESPONDENT) I/We ALIYA TAMANNA do hereby appoint and constitute HASSAN GUL, Advocate, High Cour Peshawar to appear, plead, act, compromise, withdraw or refer to arbitratifor me/us as my/our Counsel/Advocate in the above noted matter, witho any liability for his default and with the authority to engage/appoint any oth Advocate Counsel on my/our cost. I/we authorize the said Advocate to depose withdraw and receive on my/our behalf all sums and amounts payable deposited on my/our account in the above noted matter. Dated//2021 ACCEPTED HASSAN GUL		<u> </u>	OF 2021	
VERSUS (RESPONDENT) Education Department (DEFENDANT) I/We ALIYA TAMANNA do hereby appoint and constitute HASSAN GUL, Advocate, High Cour 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 oth Advocate Counsel on my/our cost. I/we authorize the said Advocate to depose withdraw and receive on my/our behalf all sums and amounts payable deposited on my/our account in the above noted matter. Dated//2021 ACCEPTED HASSAN GUL	A I VII A A I A I A I I I I I I I I I I			(APPELLANT)
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[RESPONDENT] [Audition Department] [I/We ALIYA TAMANNA] [I/We ALIYA [I/We ALIYA [I/We Aliya Tamanna] [I/We ALIYA [I/We Aliya Tamanna] [I/We Aliya			erie.	(PETITIONER)
I/We ALIYA TAMANNA do hereby appoint and constitute HASSAN GUL, Advocate, High Cour Peshawar to appear, plead, act, compromise, withdraw or refer to arbitratic for me/us as my/our Counsel/Advocate in the above noted matter, witho any liability for his default and with the authority to engage/appoint any oth Advocate Counsel on my/our cost. I/we authorize the said Advocate to depos withdraw and receive on my/our behalf all sums and amounts payable deposited on my/our account in the above noted matter. Dated//2021 ACCEPTED HASSAN GUL		VEK	<u>508</u>	
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CLIENT ACCEPTED HASSAN GUL	for me/us as my/our any liability for his de Advocate Counsel on withdraw and receive	r Counsel/Advocate fault and with the my/our cost. I/we e on my/our beha	te in the above n authority to enga authorize the said alf all sums and	oted matter, withou ge/appoint any othe d Advocate to deposi
CLIENT ACCEPTED HASSAN GUL	Dated/20	21		
HASSAN GUL			CLIENT	
HASSAN GUL				4/w)
A 131//38 / A /116/				