

Form- A

## FORM OF ORDER SHEET




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

Case No. -

1778

/2021

2

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/01/2021	<p>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.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	08-02-21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01-03-21</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>

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

Shaukat Hayat

VS

Education Deptt..

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4.	Copy of pay slip working	C	07
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**APPELLANT**

**THROUGH**

  
**(SYED NOMAN AI BUKHARI)**  
**ADVOCATE HIGH COURT**

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

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 1772 /2020

Diary No 2143

Mr. Shaukat Hayat PST  
GPS Armour colony manki road NRS .

Dated 29/11/2021

.....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.
6. District Education Officer (M) Nowshehra (E&SE) Department, Khyber Pakhtunkhwa.
7. District account officer Nowshehra ( ) Department, Khyber Pakhtunkhwa.

.....RESPONDENTS

**Filed to-day**  
**Registrar**  
29/11/21

**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 (SUMER & WINTER VACATIONS) AND MAKE THE PAYMENT OF ALL OUTSTANDING AMOUNT OF CONVEYANCE ALLOWANCE WHICH HAVE BEEN DEDUCTED PREVIOUSLY WITH ALL**

**BACK BENEFITS BIENG SIMILAR PLACED EMPLOYEE.  
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 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 14.7.2011 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 precious notification by 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 appellant feeling aggrieved from the action of the respondents regarding deduction of conveyance allowance in vacations period/months filed departmental appeal on 15.04.2020 but no reply has been received so far. **Copies of the departmental appeal is attached as annexure-D.**
5. That it is pertinent to mentioned here that feeling aggrieved some colleagues of appellant filed writ petition no.3162-P/2019 before the Peshawar High Court, Peshawar which was disposed of vide judgment dated 1.10.2019 with the direction to approach the proper forum i.e. service tribunal. **Copies of the judgment is attached as annexure E.**
6. That some of colleagues of the appellant approached to this august tribunal in different services appeal which was allowed by this august tribunal vide its judgment dated 11.11.2019. **Copy of the judgment is attached as annexure F.**
7. 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 Servant 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 aer credited to this 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 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 Honourable 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.

شکوہت صیانت  
APPELLANT

THROUGH

شہت

(SYED NOMAN AI BUKHARI)  
ADVOCATE HIGH COURT

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



**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**FINANCE DEPARTMENT**  
**(REGULATION WING)**

A - 5

NO. FD/SO(SR-11)78-52/2012  
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 Government 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 in Khyber Pakhtunkhwa.
8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
9. The Registrar, Peshawar High Court, Peshawar
10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
11. 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 / 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 vehicles.

Yours Faithfully,

(Sahibzada Saad Ahmad)  
Secretary Finance

Encl: NO. FD/SO(SR-11)78-52/2012

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

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Secretaries to Government of Punjab, Sindh & Balochistan Finance Department
3. All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa

(INTIAZ AYUB)  
Additional Secretary (Finance)

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 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)
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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 20<sup>th</sup> December, 2012



13-6

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



**Personal Information of Mr SHAUKAT HAYAT d/w/s of**

Personnel Number: 00134050      CNIC: 99990938896      NTN:  
Date of Birth: 10.10.1969      Entry into Govt. Service: 31.08.1989      -Length of Service: 29 Years 11 Months 002 Days

**Employment Category: Active Temporary**

Designation: PRIMARY SCHOOL TEACHER      80003682-DISTRICT GOVERNMENT KHYBE

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

Payroll Section: 001      GPF Section: 001      Cash Center: 13

GPF A/C No: EDU 038236      Interest Applied: Yes      **GPF Balance:**      316,953.00

Vendor Number: -

**Pay and Allowances:**      Pay scale: BPS For - 2017      Pay Scale Type: Civil      BPS: 13      Pay Stage: 21

Wage type		Amount	Wage type		Amount
0001	Basic Pay	36,310.00	1000	House Rent Allowance	2,091.00
1300	Medical Allowance	1,500.00	2148	15% Adhoc Relief All-2013	800.00
2199	Adhoc Relief Allow @10%	564.00	2211	Adhoc Relief All 2016 10%	2,865.00
2224	Adhoc Relief All 2017 10%	3,631.00	2247	Adhoc Relief All 2018 10%	3,631.00
2264	Adhoc Relief All 2019 10%	3,631.00			0.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3013	GPF Subscription - Rs2400	-2,400.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-144.00	3990	Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-1,052.00	5011	Adj Conveyance Allowance	-2,856.00

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	300,000.00	-8,333.00	258,335.00

**Deductions - Income Tax**

Payable: 2,870.95      Recovered till July-2019: 144.00      Exempted: 1147.90      Recoverable: 1,579.05

**Gross Pay (Rs.): 55,023.00      Deductions: (Rs.): -15,510.00      Net Pay: (Rs.): 39,513.00**

Payee Name: SHAUKAT HAYAT

Account Number: 9084-5

Bank Details: ALLIED BANK LIMITED, 250286 CAVALRY ROAD CAVALRY ROAD,

Leaves:      Opening Balance:      Aailed:      Earned:      Balance:

Permanent Address: SDEO M NOWSHERA

City: NOWSHERA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

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

2-7



**Personal Information of Mr SHAUKAT HAYAT d/w/s of**

Personnel Number: 00134050      CNIC: 99990938896      NTN:  
Date of Birth: 10.10.1969      Entry into Govt. Service: 31.08.1989      Length of Service: 30 Years 01 Months 002 Days

**Employment Category: Active Temporary**

Designation: PRIMARY SCHOOL TEACHER      80003682-DISTRICT GOVERNMENT KHYBE  
DDO Code: NR6010-DY: DISTT OFFICER (M) NSR  
Payroll Section: 001      GPF Section: 001      Cash Center: 13  
GPF A/C No: EDU 038236      Interest Applied: Yes      **GPF Balance:**      405,381.00  
Vendor Number: -  
**Pay and Allowances:**      Pay scale: BPS For - 2017      Pay Scale Type: Civil      BPS: 13      Pay Stage: 21

Wage type		Amount	Wage type		Amount
0001	Basic Pay	36,310.00	1000	House Rent Allowance	2,091.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	800.00	2199	Adhoc Relief Allow @10%	564.00
2211	Adhoc Relief All 2016 10%	2,865.00	2224	Adhoc Relief All 2017 10%	3,631.00
2247	Adhoc Relief All 2018 10%	3,631.00	2264	Adhoc Relief All 2019 10%	3,631.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3013	GPF Subscription	-2,400.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-230.00	3990	Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-600.00			0.00

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	300,000.00	-8,333.00	241,669.00

**Deductions - Income Tax**

Payable: 4,298.95      Recovered till September-2019: 518.00      Exempted: 1718.69      Recoverable: 2,062.26

**Gross Pay (Rs.): 57,879.00      Deductions: (Rs.): -12,288.00      Net Pay: (Rs.): 45,591.00**

Payee Name: SHAUKAT HAYAT  
Account Number: 9084-5  
Bank Details: ALLIED BANK LIMITED, 250286 CAVALRY ROAD CAVALRY ROAD,

Leaves:      Opening Balance:      Aailed:      Earned:      Balance:

Permanent Address: SDEO M NOWSHERA  
City: NOWSHERA      Domicile: NW - Khyber Pakhtunkhwa      Housing Status: No Official  
Temp. Address:  
City:      Email:

D - 2

To

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

as

**Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION OF THE CONCERNED AUTHORITY BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE DURING WINTER AND SUMMER VACATIONS.**

**Respected sir,**

With due respect it is stated that I am the employee of your good self department and work with full zeal and zest 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 14-7-2011 was issued . latter on vide revised notification dated 20-12-2012 whereby the conveyance allowance for employees working in BPS 1 to 15 were enhance 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 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 3.12.18 and also allowed by the Peshawar High court Peshawar in writ petition. 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 the same conveyance allowance which is granting to others employees . **Copy attached** . I am feeling aggrieved from the action of concerned authority regarding deduction of conveyance allowance in vacations period preferred this department 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 : 23.10.2020

شہادت حیات  
Your Obediently  
Shaukat Hiyat