Form- A

FORM OF ORDER SHEET

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S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/11/2020	The appeal presented today by Mr. Shahzaullah Yousafza Advocate may be entered in the Institution Register and put to the Learned
		Member for proper order please.
		REGISTRAR
2-		This case is entrusted to S. Bench for preliminary hearing to be pu
,		up there on <u>//3/2/</u>
		MEMBER(J)
01		The learned Member Judicial Mr. Muhammad Jamal Khalleave, therefore, the case is adjourned. To come up forme before S.B on 26.07.2021.
01	on	leave, therefore, the case is adjourned. To come up forme before S.B on 26.07.2021.
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01	on	leave, therefore, the case is adjourned. To come up forme before S.B on 26.07.2021.
01	on	leave, therefore, the case is adjourned. To come up forme before S.B on 26.07.2021.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO	/2020
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ATTA UR RAHMAN

VS EDUCATION DEPARTMENT

INDEX

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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**

Khyber Pakhtukhwa Service Tribunal

Diary No. 1539

APPEAL NO. 14994 /2020

Mr Atta Ur Rahman S/O Faiz Ur Rahman, SPST (BPS-14) Personal Barkaly Khall, No.00258511, GPS NO.4 Dir Lower.....

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 UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED THE RESPONDENTS BY ILLEGALLY AND ACTION OF UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE 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 ited to dapreviously with all back benefits. Any other remedy which , this august Tribunal deems fit that may also be awarded in Registra favor of the appellant.

R/SHEWETH: **ON FACTS:**

24/11/20

- 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

- 5- That the appellant filed departmental appeal against the illegal action of deduction of conveyance allowance, but the same has not been 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

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.

APPELLANT

Atta Ur Rahman

THROUGH:

Shahzullah yousafzai

n khan ad

Kamran khan advocates

BETTER COPY PAGE- 4

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. Ali 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: 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. 14	Rs. 1,500/-	Rs. 1,700/-
2. 5-10	Rs. 1,500/-	Rs. 1,840/-
3. 1.1-15	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

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GOVERNMENT OF KHYBER PAXHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO FGISO(SR-II) 78-5212212 Dated Poshawar the: 20-12-2012

The Sparetary to Govt of Knyton Pachagasea. Finance Deportment. Parhawar.

All Administrative Secretaries to Gove of Kingley Geletters I was The Serior Hember, Dozel of Revered, Portber, Pakhelin Fred.

The Sourger (10 General) महिल्ला है से विकास करें

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The Section . Hounts average White Palette Hall All Heads of Aligeres Departments in Knyther Baltiman Gran

AT DISHER Coordination Office to Amobile Papility American

है। Political Agents Clinical's Serbions के System River Published

गान Reg प्राप्त सिंह्फान्यम संबुधारिक्का, सिंहक्रेजिकी

The Chairman Fundic General Contraction, strates Foktounimes.

The Charman, Services Thound Mayout Feehlunghays.

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REVISION IN THE PATE OF CONVEYANCE ALLOWANCE EDR. THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWE PROVINCIAL OVERNMENT BPS 1-12

Dear Sir.

The Government of Viviter Paliture has been presented enteneed revise the rate of Conveyance Allewance admissible to all the provinces ovil Sensatial Give Manager Penalagrahma (working in 1885) to the fig. (5) was from 18 Sectionary that the the following rouse. However, the conveyorce allowance for employeds in Security to BPS-15 a fall religion - Chikhangon

	EXISTING RATE (PH) REVISED RATE (PH)
S.NO 825	Rs.1.700/-
	R\$ 1.840/
<u></u> 5_10	F = 770/-
	PS 2,6000 RS 5,000/4
T 1	85.5.000;

Comeyance Allowance at the opposition for month shall be advassible & Those SPS-17, 18 and 19 offices who have not been saryticized official websides.

Yours Fa計制款.

(Sahibaada Sacod Ahmadi Sacralan Fast Co

Endsti NO. FIRSOKSTE-TOX-528012

Dated Commercial Die December, The

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as = प्रमुख्यक्तर्राच्छ / डिक्स्स नेप्राक्तरात्त्राच्यः डिट्टाब्यः क्राव्यक्तरार में ब्रुप्तादकरेगायः

MATTAZIAYUBI REMINAZI SANDE ID

Dist. Govt. NWFP-Provincial District Accounts Office Dir at Timargar Monthly Salary Statement (January-2020)





Personal Information of Mr ATTA UR RAHMAN d/w/s of FAIZUR RAHMAN

Personnel Number: 00258511

GPF A/C No: EDUDA004930

CNIC: 10789063935

NTN:

D-3

Date of Birth: 21.03.1969

Entry into Govt. Service: 01.03.1988

Length of Service: 31 Years 11 Months 001 Days

Employment Category: Active Temporary

Designation: SENIOR PRIMARY SCHOOL TEA

80674792-DISTRICT GOVERNMENT KHYBE

DDO Code: DA6320-District Dir Lower

Payroll Section: 001

GPF Section: 001

Interest Applied: Yes

Cash Center: 33

GPF Balance:

770,679.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 14

Pay Stage: 22

Wage type		Wage type Amount		Wage type	Amount	
0001	Basic Pay	40,920.00	1000	House Rent Allowance	2,214.00	
1300	Medical Allowance	1,500.00	1923	UAA-OTHER 20%(1-15)	1,000.00	
2148	15% Adhoc Relief All-2013	918.00	2199	Adhoc Relief Allow @10%	614.00	
2211	Adhoc Relief All 2016 10%	3,134.00	2224	Adhoc Relief All 2017 10%	4,092.00	
2247	Adhoc Relief All 2018 10%	4,092.00	2264	Adhoc Relief All 2019 10%	4,092.00	

Deductions - General

	Wage type	Amount		Wage type	Amount
3014	GPF Subscription	-2,620.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-504.00	3990	Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-600.00			0.00

Deductions - Loans and Advances

	·	l ·	1
Loan	Description	Principal amount Deduction	l Polomas I
LOAH	Description	Frincipal amount Deduction	Balance
·			

Deductions - Income Tax

Påyable:

7,879.30

Recovered till JAN-2020:

3.391.00

Exempted: 1969.5

Recoverable:

2 518 75

Gross Pay (Rs.):

: 62,576.00

Deductions: (Rs.):

4.449.00

Net Pay: (Rs.):

58,127.00

Payee Name: ATTA UR RAHMAN Account Number: PLS 1002484-2

Bank Details: UNITED BANK LIMITED, 210861 U.B.L KHALUBL KHAL DIR U.B.L KHALUBL KHAL DIR

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: VILL.BAR KALAY KHALL

City: DIR LOWER

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: ataurrahman8636@gmail.com

Atta ur Rahmon S.P.S.T

G.P.S No 4 Khall Barkalay

Mob No - 0313 9711006

Dist. Govt. KP-Provincial District Accounts Office Dir at Timargar Monthly Salary Statement (August-2020)





Personnel Number: 00258511

CNIC: 10789063935

NTN:

Date of Birth: 21.03.1969

Entry into Govt. Service: 01.03.1988

Length of Service: 32 Years 06 Months 001 Days

Employment Category: Active Temporary

Designation: SENIOR PRIMARY SCHOOL TEA

80674792-DISTRICT GOVERNMENT KHYBE

DDO Code: DA6320-District Dir Lower

Payroll Section: 001

GPF A/C No: EDUDA004930

GPF Section: 001

Interest Applied: Yes

Cash Center: 33

GPF Balance:

789,019.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 14

Pay Stage: 22

Wage type		Amount		Amount	
0001	Basic Pay	40,920.00	1000	House Rent Allowance	2,214.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1923	UAA-OTHER 20%(1-15)	1,000.00	2148	15% Adhoc Relief All-2013	* 918.00
2199	Adhoc Relief Allow @10%	614.00	2211	Adhoc Relief All 2016 10%	3,134.00
2224	Adhoc Relief All 2017 10%	4,092.00	2247	Adhoc Relief All 2018 10%	4,092.00
2264	Adhoc Relief All 2019 10%	4,092.00			0.00

Deductions - General

	Wage type	Amount		Wage type	Amount
3014	GPF Subscription	-2,620.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-579.00	3990	Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-600.00			0.00

Deductions - Loans and Advances

_				
l Loan	Description	Principal amount	Deduction	i Balance l
			. Downout	Danielie

Deductions - Income Tax

Payable:

9,116.35

Recovered till AUG-2020:

1,051.00

Exempted: 2278.65

Recoverable:

5.786.70

Gross Pay (Rs.):

65,432.00

Deductions: (Rs.):

4.524.00

Net Pay: (Rs.):

Payee Name: ATTA UR RAHMAN Account Number: PLS 1002484-2

Bank Details: UNITED BANK LIMITED, 210861 U.B.L KHALUBL KHAL DIR U.B.L KHALUBL KHAL DIR,

Leaves:

Opening Balance:

Availed:

Earned:

Balance: -

THA SELE

Permanent Address: VILL.BAR KALAY KHALL

City: DIR LOWER

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: ataurrahman8636@gmail.com



Atta ur Rahmon S.P.S.T G. P. S No 4 Khall Barkaloy Mob No - 03/3 97/1006

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRI **PESHAWAR**

APPEAL NO. 1452 /2019

Mr. Maqsad 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, Peshawara
- 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 Fledto-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:

ALTESTON FACTS:

24/18/16

1- That the appellant is serving in the elementary and secondary EXAMILER education department as Certified Teacher (BPS-15) quite efficiency of the superiors.

Ce Tribunal Deshawar 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

11.11.2019

Appeal No. 1452/2019 Markad Hayat vs Govt

8

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 record

ANNOUNCED

11.11.2019

Chairmán

P

Certified th he ture copy

Peshawar

. . . <u>t</u>.,

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

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION OF THE CONCERNED AUTHORITY BY HLLEGALLY 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 was serving as SPST (BPS- 14) quite efficiency and up to the 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 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: .01.08.2020

Atta Ur Rahman

SPST, GPS NO.4 Barkaly Khall, Dir Lower.

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, **PESHAWAR** _____ OF 2020 (APPELLANT) _(PLAINTIFF) (PETITIONER) **VERSUS** (RESPONDENT) EDUCATION DEPTT: (DEFENDANT) Atta us Ruhman **SHAHZULLAH** constitute and Do hereby appoint YOUSAFZAI, Advocate, Pesnawar 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. CLIENT(S) **ACCEPTED** SHAHZULLAH YOUSAFZAI ,

KAMRAN KHAN ADVOCATES