Form- A

FORM OF ORDER SHEET

Court of

1491 Case No.-2020

Order or other proceedings with signature of judge S.No. Date of order proceedings 2 .3 1 The appeal presented today by Mr. Shahzaullah Yousafzai 24/11/2020 1-Advocate may be entered in the Institution Register and put to the Learned Member for proper order please. REGISTRA This case is entrusted to S. Bench for preliminary hearing to be put 2up there on 1/3/2/ MEMBER(J) 01.03.2021 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. Reader

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. ____/2020

NOOR REHMAN VS EDUCATION DEPARTMENT

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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INDEX

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

Diary No.15

PESHAWAR

APPEAL NO. 14905 /2020

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.

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:

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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 egistrar

<u>ON FACTS:</u>

- 1- That the appellant is serving in the elementary and secondary Education Department as physical education teacher (BPS-15) 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

- 4- That some employee of E&SE department approached to this august Tribunal against illegal deduction of conveyance allowance in different service appeal which were allowed by this august Tribunal vide its judgment dated 11.11.2019. Copy of the judgment is attached as annexure......**D**.
- 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.

Noor Rehman THROUGH: Shahzullah vousafzai 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

To:

The Secretary to Govt: of Khyber Pakhtunkhwa. Finance Department, Peshawar.

All administrative Secretaries to Govt: of Khyber Pakhtunkhwa.

The Senior Member, Board of Revenue, Khyber Pakhtunkhwa, 2:

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.

S. Al: Political Agents/District & Session Judge in Khyber Pakhtunkhwa

9. Th. 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/-
3.	11-15	Rs 2,000/-
4.	16-19	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

SOVERNMENT OF KHYBER PANHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO FOISCISR-IN-7-5212012 Dated Reshawariths 20-12-2042

The Shirelary to Cove of Anysen Pachalance Finance Department. Perhawar,

From

To.

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REVISION IN THE PATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA PROVINCIAL SOVERNMENT BPS 1-19

Dear Sirt . ראין עראייביער איז איין איין איינאר איינארא איינגעראי איינגעראין איינאראין איינאראין איינאראין איינאראין איינא vivise the rate of Conveysnce Allowance admissible to all the province Ovil Senand Gre (The sen Pethenyhwa (Working & EPS-10 EPS-15) we normal Sector service all P The following rates. However, the konversion allowers to employees in SPLATS to EPS-19

half remain with an and a EXISTING RATE (PH) REVISED RATE (PH) BPS S.NO Rs.1.700/-500/-----Rs 1 840/-Ps 1500/-Ţ, -12 1-15, Sec. 2,600 RS 2720/-<u>95,5,500/</u> BS:5:DOON 15-22

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Yours Fashiulia, Sahiberda Sacod Ahmad Secretary Firzarce

Endsite S.C. FD: SOASR IT NS-5272012

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



Personal Information of Mr NOOR REHMAN d/w/s of GHULAM RAHMAN

Personnel Number: 00259741 C Date of Birth: 15.05.1977 E

CNIC: 10877047545 Entry into Govt. Service: 01.03.2004 NTN:

Length of Service: 16 Years 05 Months 001 Days

Employment Category: Vo	cational Temporary				
Designation: PHYSICAL EL	80001421-DISTRICT GOVERNMENT KHYBE				
DDO Code: DA6026-G H S	S BAGH MAIDAN				
Payroll Section: 001	GPF Section: 001	Cash Center:			
GPF A/C No: 259741	Interest Applied: Yes	GPF Balance:		429,339.00	
Vendor Number: - Pay and Allowances:	Pay scale: BPS For - 2017	Pay Scale Type: Civil	BPS: 16	Pay Stage: 14	

Wage type		Amount	Amount Wag		Amount	
0001	Basic Pay	40,190.00	1000	House Rent Allowance	2,727.00	
1 92 4	UAA-OTHER 20%(16 G/NG)	1,500.00	1947	Medical Allow 15% (16-22)	1,530.00	
2148	15% Adhoc Relief All-2013	810.00	2199	Adhoc Relief Allow @10%	582.00	
2211	Adhoc Relief All 2016 10%	2,996.00	2224	Adhoc Relief All 2017 10%	4,019.00	
2247	Adhoc Relief All 2018 10%	4,019.00	2264	Adhoc Relief All 2019 10%	4,019.00	

Deductions - General

Wage type Amount			Wage type	Amount	
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-465.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-650.00			0.00

Deductions - Loans and Advances

Loan	Desc	ription	Principal amount	Deduction	Balance
Deductions	- Income Tax				
Payable:	7,435.15 Recove	red till JUL-2020; 4	65.00 Exempted	: 1858,45 . Recovera	ble: 5,111.70
Gress Pay (Rs.): 62,392.00	Deductions: (Rs.):	-5,405.00	Net Pay: (Rs.): 56,	987.00
Account Nu	e: NOOR REHMAN amber: PLS 5676-9 ls: HABIB BANK LIMI	TED, 221104 KUMBER	DIR KUMBER, KUMBE	ER DIR	
Leaves:	Opening Balance :	Availed:	Earned:	Balance:	
Permanent	Address: VILL.BISHGR	AM			
City: DIR L		Domicile: NW - K	hyber Pakhtunkhwa	Housing Status	: No Official
Temp. Add City:	ress:	Email: noorspet@g	gmail.com		;
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		Sherit			

System generated document in accordance with APPM 4.6.12.9(SERVICES/29.07.2020/15:17:22/v2.0) * All amounts are in Pak Rupees * Errors & omissions excepted

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



Personal Information of Mr NOOR REHMAN d/w/s of GHULAM RAHMAN

Personnel Number: 00259741 Date of Birth: 15.05.1977

CNIC: 10877047545 Entry into Govt. Service: 01.03.2004

<u>4,019.00</u>

4,019.00

NTN:

Adhoc Relief All 2018 10%

BPS: 16

Length of Service: 16 Years 06 Months 001 Days

432,679.00

Pay Stage: 14

4,019.00

0.00

Employment Category: Vocational Temporary

Designation: PHYSICAL EDUCATION TEACHE 80001421-DISTRICT GOVERNMENT KHYBE DDO Code: DA6026-G H S S BACH MAIDAN

GPF Section: 001	Cash Center:
Interest Applied: Yes	GPF Balance:
-	,
Pay scale: BPS For - 2017	Pay Scale Type: Civil
	Interest Applied: Yes

Amount	Wage type		Amount
40,190.00	1000	House Rent Allowance	2,727.00
5,000.00	1924	UAA-OTHER 20%(16 G/NG)	1,500.00
1,530.00	2148	15% Adhoc Relief All-2013	810.00
582.00	2211	Adhoc Relief All 2016 10%	2,996.00
	40,190.00 5,000.00 1,530.00	40,190.00 1000 5,000.00 1924 1,530.00 2148	40,190.00 1000 House Rent Allowance 5,000.00 1924 UAA-OTHER 20%(16 G/NG) 1,530.00 2148 15% Adhoc Relief All-2013

2247

Deductions - General

0001 Basic

1210

1947

2199

2224

2264

Wage type	Amount	Wage type	Amount
3016 GPF Subscription	-3,340.00	3501 Benevolent Fund	-800.00
3609 Income Tax	-653.00	3990 Emp.Edu. Fund KPK	-150.00
4004 R. Benefits & Death Comp:	-650.00		0.00

Deductions - Loans and Advances

Adhoc Relief All 2017 10%

Adhoc Relief All 2019 10%

Loan	Des	cription	Principal amount	Deduction	Balance
Deductions Payable:	- Income Tax 10,185.15 Recov	cred till AUG-2020:	1,118.00 Exempted:	2545.45 Recovera	ble: 6,521.70
Gross Pay ((Rs.): 67,392.00	Deductions: (Rs.):	-5,593.00	Net Pay: (Rs.): 61,	799.00
Account Nu	c: NOOR REHMAN umber: PLS 5676-9 ls: HABIB BANK LIM	ITED, 221104 KUMBER	DIR KUMBER, KUMBE	R DIR	
Leaves:	Opening Balance:	Availed:	Earned:	Balance:	
Permanent .	Address: VILL.BISHG	RAM			
City: DIR L Temp. Add		Domicile: NW - K	Chyber Pakhtunkhwa	Housing Status:	No Official
City:		Emaíl: noorspet@	gmail.com	·	
		BASTER			,·

System generated document in accordance with APPM 4.6.12.9(SERVICES/28.08.2020/18:22:14/v2.0) All amounts are in Pak Rupees

* Errors & omissions excepted

APPELLAN

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRUE 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 ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE THE APPELLANT DURING WINTER & SUMMER OF 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 Conveyance allowance which have been deducted of Fledto-daypreviously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant. Registrar

R/SHEWETH: ATTESTON FACTS:

2-4/10/19

ERAMOER

Projece Tribunal.

1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency Kitcher Paking 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

Appeal No. 1452/2019 Markad Hayat vs Govt

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 record.

ANNOUNCED

11.11.2019

Chairmar

Certified (t) he ture copy ibural. Peshawar

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

Subject:

DEPARTMENTAL APPEAL AGA	AINST THE IMPUGNED
ACTION OF THE CONCERN	
ILLEGALLY AND UNLAWFUL	
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 PET (BPS- 15) quite efficiency and up to the satisfaction of the superiors. It is stated for kind information that entire 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

Noor Rehman

PET, GHSS Bagh Maidan, Dir Lower.

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

_____ OF 2020

Noor Rehmon

(APPELLANT) __(PLAINTIFF) (PETITIONER)

VERSUS

EDUCATION DEPTT:

(RESPONDENT) (DEFENDANT)

I/We Noor Rehman

Do hereby appoint and constitute **SHAHZULLAH YOUSAFZAI, Advocate, 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 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.

Dated.____/_ ____/2020

Norkalmin

CLIENT(S)

SHAHZULLAH YOUSAFZAI

KAMRAN KHAN ADVOCATES