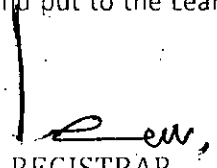



Form- A

FORM OF ORDER SHEET

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

Case No.- 13727 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/11/2020	<p>The appeal presented today by Mr. Shahzaullah Yousafzai 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-	01.03.2021	<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> <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>

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

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

**SANAULLAH VS EDUCATION DEPARTMENT**

**INDEX**

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6.	Vakalat nama	.....	10

**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 Pakhtunkhwa  
Service Tribunal

**APPEAL NO. 13727/2020**

Diary No. 14103

Dated 4/11/2020

Mr Sana Ullah S/O Muhammad Khan, PST (BPS-12) Personnel  
No.00922646, GPS, Kattan Bala, Dir  
lower.....**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 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 and secondary Education Department as primary school teacher (BPS-12) 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

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 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.

**GROUND:**

**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**

  
**Sana Ullah**

**THROUGH:**   
**Shahzullah yousafzai**  
&   
**Kamran Khan advocates**

BETTER COPY PAGE- 5

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION 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)
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.

~~TESTED~~

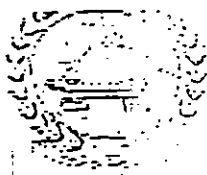
Your Faithfully

(Sahibzada Saeed Ahmad)  
Secretary Finance

Encl: No. FD/SO(SR-II)8-52/2012 Dated Peshawar the 20<sup>th</sup> December, 2012

MA

A - 5



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

NO. FD/SO/SR-III/8-52/2012  
Dated Peshawar the: 26-12-2012

From:

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

To:

- All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
- The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
- The Secretary to Government, Khyber Pakhtunkhwa.
- The Secretary to Chief Minister, Khyber Pakhtunkhwa.
- The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
- All Heads of Attached Departments in Khyber Pakhtunkhwa.
- All District Coordination Officers, Khyber Pakhtunkhwa.
- All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
- The Registrar, Peshawar High Court, Peshawar.
- The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
- The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

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

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-19) 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/-

Conveyance Allowance at the above rates per month shall be admissible to the BPS-17, 18 and 19 officers who have not been sanctioned official vehicles.

Yours Faithfully,

(Shahbaz Saad Ahmad)  
Secretary Finance

Under NO. FD/SO/SR-III/8-52/2012

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

A Copy is forwarded for information to the:-

- 1. Accounts General, Khyber Pakhtunkhwa, Peshawar.
- 2. Secretaries to Government of Punjab, Sindh & Balochistan Finance Department.
- 3. All Administrators / Senior Administrative Officers, Khyber Pakhtunkhwa.

(INTIAZ AYUB)  
Additional Secretary (Revenue)

3.2020.TXT

پست سائنس  
کاپس کاش مال

B-6



Dir at Timargar

S#:3

P Sec:001 Month:March 2020  
DA6151 -GOVT. PRIMARY SCHOOLS (M)  
GOVT PRIMARY SCHOOLS (MAL)

Pers #: 00922646 Buckle:

Name: SANA ULLAH

PRIMARY SCHOOL TEACHER

CNIC No. 1530276164879

GPF Interest Applied

12 Active Temporary

NTN:

GPF #:

Old #:

DA6151

PAYS AND ALLOWANCES:

0001-Basic Pay	461.00
1000-House Rent Allowance	63.00
1210-Convey Allowance 2005	92.00
1300-Medical Allowance	48.00
1923-UAA-OTHER 20%(1-15)	32.00
2211-Adhoc Relief All 2016 10%	36.00
2224-Adhoc Relief All 2017 10%	46.00
2247-Adhoc Relief All 2018 10%	46.00
2264-Adhoc Relief All 2019 10%	46.00
Gross Pay and Allowances	870.00

DEDUCTIONS:

Subrc:

Total Deductions

0.00

870.00

D.O.B  
02.04.1992

01 Years 01 Months 001 Days

LFP Quota:

UNITED BANK LIMITED UBL TALASH DISST DIR  
258685576



C-7

Dir,at Timargar

s#:3

P Sec:001 Month:July 2020  
DA6151 -GOVT. PRIMARY SCHOOLS (M)  
GOVT PRIMARY SCHOOLS (MAL)  
NTN:  
GPF #:  
Old #:

Pers #: 00922646 Buckle:  
Name: SANA ULLAH  
PRIMARY SCHOOL TEACHER  
CNIC No.1530276164879  
GPF Interest Applied  
12 Active Permanent

DA6151 -

PAYS AND ALLOWANCES:

0001-Basic Pay	14,280.00
1000-House Rent Allowance	1,961.00
1300-Medical Allowance	1,500.00
1923-UAA-OTHER 20%(1-15)	1,000.00
2211-Adhoc Relief All 2016 10%	1,114.00
2224-Adhoc Relief All 2017 10%	1,428.00
2247-Adhoc Relief All 2018 10%	1,428.00
2264-Adhoc Relief All 2019 10%	1,428.00

Gross Pay and Allowances 24,139.00

DEDUCTIONS:

	Subrc:	
3501-Benevolent Fund		600.00
3534-R. Ben & Death Comp Fresh		600.00
3990-Emp.Edu. Fund KPK		125.00

Total Deductions 1,325.00

22,814.00

D.O.B  
02.04.1992  
01 Years 05 Months 001 Days

LFP Quota:  
UNITED BANK LIMITED UBL TALASH DISST DIR  
258685576

D-2  
~~1010~~ - 1010

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

APPEAL NO. 1452 /2019



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

**PRAYER/SHEWETH:**

**ATTENTION 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 on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

Filed to  
Registrar  
24/10/19

ABDUL  
KAMRAN  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

11/11/19

Appeal No. 1452/2019  
Marbad 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.

Chairman

ANNOUNCED

11.11.2019

Certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

M

To

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

E-10

**Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION OF 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 was the employee of your good self Department and is serving as PST (BPS- 12) 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 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

Your Obediently

*Sana Ullah*  
Sana Ullah

PST, GPS, Kattan Bala, Dir lower.

*S*  
**ATTESTED**

**VAKALATNAMA**

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

\_\_\_\_\_ OF 2020

Sana ullel (APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

\_\_\_\_\_ (RESPONDENT)  
EDUCATION DEPTT: \_\_\_\_\_ (DEFENDANT)

I/We Sana ullel  
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

Sana ullel  
CLIENT(S)

SHAHZULLAH YOUSAFZAI  
**ACCEPTED**  
SHAHZULLAH YOUSAFZAI

&  
KAMRAN KHAN  
KAMRAN KHAN  
ADVOCATES