Form- A

FORM OF ORDER SHEET

Court of			
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Case No	5570	/2020	
Case No.	/ 		

	Case No	/2020
No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/12/2020	The appeal presented today by Mr. Kamran Khan Advocate may be entered in the Institution Register and put to the Learned Member for
٠.	The state of the s	proper order please.
		REGISTRAR
-		This case is entrusted to S. Bench for preliminary hearing to be put
	08-02-2	up there on 03 - 03 21
		4)
		MEMBER(J)
)	02 2021	The January Monthey Judicial My Muhammad Januar Khan
۱٥.ر		The learned Member Judicial Mr. Muhammad Jamal Khan
		er transfer, therefore, the case is adjourned. To come up f
	the	same before S.B on 28.07.2021.
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO.	/2020	

NAVID AHMAD

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal		1- 3.
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6.	Vakalat nama		10.

APPELLANT

THROUGH:

KAMRAN KHAN ADVOCATE

OFFICE: Flat No.4, 2nd Floor, Juma Khan Plaza, Near FATA Secretariat, Warsak Road, Peshawar. 0344-9118844

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Khyber Palchtukhwa Service Tribuu2i

Diary No. 16450

Mr. Navid Ahmad, SS IT (BPS-17), GHS Sandovi, District Shangla.

Dated 14/12/2020

.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 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 Filedto-dayallowance 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 & Secondary Education Department as SS IT (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

- 5- That appellant also filed Departmental appeal before the appellate for redressal of his grievances in light of the principle of consistency but no reply has been received from the quarter concerned. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure.

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 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 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 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.

ARPELLANT

NAVID AHMAD

THROUGH:

KAMBAN 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. Al: 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.

REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE Subject: 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.c.f from 1st September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-16 to BPS-19 will remain un-

SN	o. BPS		Cristian D. Co.	<u> </u>
1	1 7		Existing Rate (PM)	Revised Rate (PM)
7	- 1 - 10		Rs. 1,500/-	Rs. 1,700/ _T
2.	5-10	<u></u> - i	Rs. 1.500/-	Rs. 1,840/-
[3.	11-15		Rs. 2.000/-	
4.	16-19			Rs. 2,720/-
<u></u>			Rs. 5.000/-	Rs. 5,000/-
1.2	-	•		

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, 20

A - (1)



FINANCE DEPARTMENT (REGULATION WINE)

NO. FEISOISR: IIV3-5213012 Dated Reshawarthe: 20-12-2012

From

ੈਨੈਂਟ Secretary ਦਿੱਉਆਂ। ਹਾਂ ਮਿਸਾਰਗ ਸੋਤਟਸਦਸਤਾਲ Finance Descriptions Perhawar,

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PEVISION IN THE PATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KNYBER PARHIUNKHWAY PROVINCIAL DOVERNMENT BPS 1-19

268/15F.

The Government of Knyber Politicalny other been present to enhance to vivise the retained to the Province Allowance admissible to all the Provinces total Seniorial Government of Anybur Petchanishous (Violaine in EPS-1 to EPS-15) with from 1. September, and I are inclosed to the conveyence allowance for employees in EPS-15 to EPS-15 with remaining rates. However, the conveyence allowance for employees in EPS-15 to EPS-15.

S.NÓ	βPŞ	EDSTING RATE (PH)	REVISED RATE (PH)
1	1-4	\$\$4,\$00/-	Rs.1.700/-
<u></u>	5-10 :	Ps.1,500/-	Rs.1.840/-
3,	11-15.	1 Ps_2,G00/- ***	Rs.2.720/-
1.	15:19	8.5,000/+	RS.5,000/-

2 . Comeyance Allewance at the above rates becoments shalf be adressible के those SPS-17, 18 इन्द्र 19 effects who have not been sanctioned allicial vehicles.

You's Faithfully,

(Sahio ada Saced Ahmadi Secretary Fazares

Endst. NO. PDESCHSTEIT NESTERIE

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UNITAZ AYEBI

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





Personal Information of Mr NAVID AHMAD d/w/s of

Personnel Number: 00390269

CNIC: 15503544875

Date of Birth: 01.10.1978

Entry into Govt. Service: 01.09.2004

NTN:

Length of Service: 15 Years 01 Months 001 Days

Employment Category: Active Permanent

Designation: SUBJECT SPECIALIST I.T

80004418-DISTRICT GOVERNMENT KHYBE

DDO Code: SH6044-HM GHS SANDOOI Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017. Pay Scale Type: Civil

BPS: 17

	Wage type Amount Wage type Amount				
0001	Basic Pay	44,170.00	1000 House Rent Allowance	4,433.00	
1210	Convey Allowance 2005	5,000.00	1554 Spl. Comp. Allowance	3,222.00	
1913	Comp Allow 20%(N2,17to22)	2,000.00	1947 Medical Allow 15% (16-22)	1,665.00	
2148	15% Adhoc Relief All-2013	900.00	2199 Adhoc Relief Allow @10%	607.00	
2211	Adhoc Relief All 2016 10%	3,124.00	2224 Adhoc Relief All 2017 10%	4,417.00	
2247	Adhoc Relief All 2018 10%	4,417.00	2265 Adhoc Relief All 2019 05%	2,208.00	

Deductions - General

Wage type		Amount		Wage type	Amount
3017	GPF Subscription	-4,270.00	3609	Income Tax	-691.00
3990	Emp.Edu. Fund KPK	-250.00	4004	R. Benefits & Death Comp:	-900.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable:

15,448.09

Recovered till SEP-2019:

3,059.00

Exempted: 6178.37

Recoverable:

6,210.72

Gross Pay (Rs.):

76,163.00

Deductions: (Rs.):

-6,111.00

Net Pay: (Rs.):

70,052.00

Payee Name: NAVID AHMAD Account Number: 2516-6

Bank Details: NATIONAL BANK OF PAKISTAN, 231934 NBP ALPURAI SHANGLA, NBP ALPURAI SHANGLA,

Leaves:

Opening Balance:

· Availed:

Earned:

Balance:

Permanent Address:

City: SHANGLA

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: navidahmad1978@gmail.com

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

Information of Mr NAVID AHMAD d/w/s of

Personnel Number: 00390269

CNIC: 15503544875

Date of Birth: 01.10.1978

Entry into Govt. Service: 01.09.2004

Length of Service: 14 Years 11 Months 001 Days

Employment Category: Active Permanent

Designation: SUBJECT SPECIALIST I.T

80004418-DISTRICT GOVERNMENT KHYBE

DDO Code: SH6044-HM GHS SANDOOI

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

317,903.

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 17

					11 114 ALIA .
	Wage type	Amount		Wage type	Amonat
0001	Basic Pay	44,170.00	1000 Hc	ouse Rent Allowance	4,433.00
1554	Spl. Comp. Allowance	3,222.00	1913 Co	omp Allow 20%(N2,17to22)	2,000.00
1947	Medical Allow 15% (16-22)	1,665.00	2148 15	% Adhoc Relief All-2013	900.00
2199	Adhoc Relief Allow @10%	607.00	2211 Ad	lhoc Relief All 2016 10%	3,124.00
2224	Adhoc Relief All 2017 10%	4,417.00	2247 Ac	lhoc Relief All 2018 10%	4,417.00
2265	Adhoc Relief All 2019 05%	2,208.00		,	0.00

Deductions - General

	Wage type	Amount Wage type		w.w.Amount	
3017	GPF Subscription	-4,270.00	3609	Income Tax	-1,059.00
3990	Emp.Edu. Fund KPK	-250.00	4004	R. Benefits & Death Comp:	-900:00;

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable:

12,698.16

Recovered till JUL-2019:

1,059.00

Exempted: 0.82-

Recoverable:

11,639.98

Gross Pay (Rs.):

71,163.00

Deductions: (Rs.):

-6,479.00

64,684.00

Net Pay: (Rs.):

Payee Name: NAVID AHMAD

Account Number: 2516-6

Bank Details: NATIONAL BANK OF PAKISTAN, 231934 NBP ALPURAI SHANGLA NBP ALPURAI SHANGLA,

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: SHANGLA

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: navidahmad1978@gmail.com

NAVID Ahmad GIHSS Sandovi 0343-9419363 BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1452 /2019

Mr. Maqsad 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 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:

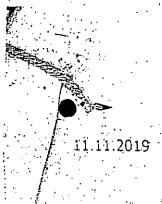
ATTESTON FACTS:

e)ce Tribunal Deshawar

5-11/10/16

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



Affeal No. 1452/2019 Markad Hayat vs Gort



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.

Chairma

File be consigned to the record.

ANNOUNCED

11.11.2019

ertified to he ture copy

Khyber akhtunkhwa Service Fribunal. Peshawar The Director, (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

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 am the employee of your good self Department and is serving as SS IT (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 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 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: 27.08.2020

Your Obediently

NAVID AHMAD, SS IT GHS Sandovi, Shangla

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

	OF 2020
Navid Ahmad	(APPELLANT)(PLAINTIFF) (PETITIONER)
<u>VERSU</u>	<u>s</u>
Education Department	(RESPONDENT) (DEFENDANT)
I/We Navid Ahmad Do hereby appoint and constitute Peshawar to appear, plead, act, co arbitration for me/us as my/our Couns matter, without any liability for his dengage/appoint any other Advocate authorize the said Advocate to deposit, behalf all sums and amounts payable of the above noted matter.	mpromise, withdraw or refer to sel/Advocate in the above noted efault and with the authority to Counsel on my/our cost. I/we withdraw and receive on my/our
Dated/2020	CLIENT Show
	ACCEPTED KAMRAN KHAN

ADVOCATES

OFFICE:

Flat No.4, 2nd Floor,
Juma Khan Plaza, Near FATA Secretariat,
Warsak Road, Peshawar.
Mobile No.0344-9118844