

18.12.2020

Mr. Fazal Shah Mohmand, Advocate, for appellant is present.

2. By way of the instant service appeal, the actions of respondents for keeping back the conveyance allowance, its deduction from the monthly pay of the appellant during the prevalence of summer and winter vacations, has been challenged, hitherto assailed through departmental appeal but to no avail thus a prayer was made directing the respondents not to make any deductions regarding the conveyance allowance during the vacations period and making payment of all outstanding amount/back benefits of the referred to allowance.

3. Learned counsel for the appellant placed reliance on the judgment of the Hon'ble Peshawar High Court, Peshawar, dated 1<sup>st</sup> of October, 2019, whereby it has been held that the pay of civil servant per mensem includes special pay, personal pay and other emoluments declared by the authority to be paid and that conveyance allowance is the integral part of pay. He submitted that in a judgment of Sindh Services Tribunal Karachi dated 23.12.2015 it has been held that vacations counts as duty and the civil servant in vacations departments are allowed to receive conveyance allowance during summer and winter vacations which are holidays and not leave of any kind.

4. Since it has been held consistently in categorical terms that conveyance allowance allowed to civil servants of vacation departments, is part and parcel of their pay, therefore, it cannot be separated from other emoluments to which they are held entitled, therefore, its deduction and consequent holding back during the sessions of summer and winter vacations is violation of law and rules in vogue, reliance is placed on judgment of this Tribunal vide Appeal No. 1452/2019 Captioned Maqsa'd Hayat Versus Government of Khyber Pakhtunkhwa decided on 11.11.2019, therefore, respondents are directed not to deduct conveyance allowance from the pay of appellant during the course of summer and winter vacations, respondents are also directed to give effect to the findings made above in its letter and spirit and in case of non-compliance the legal course of action is open to appellant. File be consigned to the record room.

ANNOUNCED

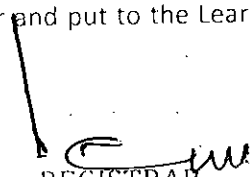

18.12.2020

(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

# FORM OF ORDER SHEET

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

Case No.- 14639 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/11/2020	<p>The appeal presented today by Mr. Fazal Shah Mohmand 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> <p>This case-is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/12/2020</u></p> <p style="text-align: right;"> MEMBER(J)</p>

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No \_\_\_\_\_/2020

Mst. Neelum Sayed.....Appellant

**V E R S U S**

Govt. and Others.....Respondents

**I N D E X**

S. No	Description of Documents	Annexure	Pages
1.	Service Appeal		1-2
2.	Copy of Pay Slips	A	3-4
3.	Copy of departmental appeal	B	5
4.	Copies of Judgments	C	6-9
5.	Wakalat Nama		10

Dated:- 18-11-2020

*Neelum*  
Appellant

Through

*Fazal Shah Mohmand*  
Fazal Shah Mohmand  
Advocate Supreme Court

**OFFICE:-** Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell#  
0301 8804841

Email:- fazalshahmohmand@gmail.com

**Note:**

Spare copies will be provided after the admission of Service Appeal.

*Fazal Shah Mohmand*  
Advocate

1

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. JF/2/2020

Mat. Neelum Sayed, Lecturer (Psychology) (BPs-17) Govt. Girls Degree College Chitral Upper  
Appellant

V E R S U S

- 1. Govt. of KPK through Secretary Higher Education, Archives and Libraries Department Peshawar.
  - 2. Director Higher Education, Govt. of Khyber Pakhtunkhwa Peshawar.
  - 3. Govt. of Khyber Pakhtunkhwa through Secretary Finance Department Peshawar.
  - 4. Accountant General, Khyber Pakhtunkhwa Peshawar.
- ..... Respondents

APPEAL UNDER 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ACTION OF RESPONDENTS OF ILLEGALLY DEDUCTING CONVEYANCE ALLOWANCE FROM THE APPELLANT DURING SUMMER AND WINTER VACATIONS AND PAYMENT OF DEDUCTED AMOUNT MADE TO THE APPELLANT MADE FROM HER IN THIS RESPECT FOR WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:-

On acceptance of this appeal the respondents may kindly be directed not to deduct from the appellant the conveyance allowance during the summer and winter vacations and pay the appellant the illegally deducted amount in this respect.

Respectfully Submitted:-

1. That the appellant is serving as Lecturer (Psychology) (BPs-17) Govt. Girls Degree College Chitral Upper in the respondent department and since then she performed her duties with honesty and full devotion with spotless service career.

2. That the department in which the appellant is serving is vacation department and the conveyance allowance is deducted from the appellant during summer and winter vacations in violation of Rule 82 (b) of the Fundamental Rules 1925, according to which vacation counts as duty. (Copy of pay slip is enclosed as Annexure A).

3. That the appellant approached respondents for directing respondents not to deduct and pay her the conveyance allowance

2

during summer and winter vacations with further directions to the respondents to pay the appellant the already illegally deducted amount in this regard, vide departmental appeal which has not been responded so far despite the lapse of the statutory period of ninety days. **(Copy of departmental appeal is enclosed as Annexure B).**

4. That this action of the respondents of not paying the appellant the conveyance allowance during the summer and winter vacations and not paying the appellant the illegally deducted amount in this respect, is against the law, facts and principles of justice on grounds inter alia as follows:-

**GROUND S:-**

- A. That the omissions and commissions of the respondents are illegal and void ab-initio.
- B. That **Rule 82 (b)** of the Fundamental Rules 1922, is very much clear on the point, according to which **vacation counts as duty**, hence deduction of conveyance allowance during the Summer and Winter vacations is illegal and against the **Rule 82 (b)** of the Fundamental Rules 1922.
- C. That even this issue was agitated before the Sindh Service Tribunal, Federal Service Tribunal and even before this honorable Tribunal which appeals were accepted and even that judgments have been implemented. **(Copy of Judgment is enclosed as Annexure C).**
- D. That the illegal deduction of the conveyance allowances during vacations cause monetary loss to the appellant and she is subjected to monetary loss illegally.

**It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.**

**Dated:- 18-11-2020**

  
**Appellant**  
(Mst. Neelum Sayed)

**Through**

  
**Fazal Shah Mohmand**  
**Advocate Supreme Court**

Government of Khyber Pakhtunkhwa  
District Accounts Office Chitral  
Monthly Salary Statement (July-2020)

3

MA



Personal information of Mr NEELUM SYEED d/w/s of BAKHTAWAR SYEED

Personnel Number: 00895785 CNIC: 1730166258024 NTN:  
Date of Birth: 05.04.1991 Entry into Govt. Service: 24.10.2018 Length of Service: 01 Years 09 Months 009 Days

Employment Category: Active Permanent

Designation: LECTURER 80001205-GOVERNMENT OF KHYBER PAKH  
DDO Code: CL4264-  
Payroll Section: 001 GPF Section: 001 Cash Center:  
GPF A/C No: Interest Applied: Yes GPF Balance: 91,508.00  
Vendor Number: 30372610 - NEELUM SAYEED A/C#038270067278 HBL  
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 17 Pay Stage: I

Wage type		Amount	Wage type		Amount
0001	Basic Pay	32,670.00	1000	House Rent Allowance	4,433.00
1916	UAA-CHITRAL 50%(17-22)	4,500.00	1947	Medical Allow 15% (16-22)	1,846.00
2211	Adhoc Relief All 2016 10%	2,544.00	2224	Adhoc Relief All 2017 10%	3,267.00
2247	Adhoc Relief All 2018 10%	3,267.00	2265	Adhoc Relief All 2019 05%	1,633.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-157.00	3990	Emp.Edu. Fund KPK	-250.00
4004	R. Benefits & Death Comp:	-900.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 2,496.23 Recovered till July-2020: 157.00 Exempted: 623.01 Recoverable: 1,716.22

Gross Pay (Rs.): 54,160.00 Deductions: (Rs.): -6,377.00 Net Pay: (Rs.): 47,783.00

Payee Name: NEELUM SYEED  
Account Number: 0382790067270  
Bank Details: HABIB BANK LIMITED, 220382 BUNEY CHITRAL BUNEY CHITRAL,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: City: 17200 Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official  
Temp. Address: City: Email:

ATTESTED  
TO BE TRUE COPY

Government of Khyber Pakhtunkhwa  
District Accounts Office Chitral  
Monthly Salary Statement (August-2020)



Personal Information of Mr NEELUM SYEED d/w/s of BAKHTAWAR SYEED

Personnel Number: 00895785 CNIC: 1730166258024 NTN:  
Date of Birth: 05.04.1991 Entry into Govt. Service: 24.10.2018 Length of Service: 01 Years 10 Months 009 Days

Employment Category: Active Permanent

Designation: LECTURER 80001205-GOVERNMENT OF KHYBER PAKH

DDO Code: CL4264-

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

95,778.00

Vendor Number: 30372610 - NEELUM SAYEED A/C#038270067278 HBL

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 17

Pay Stage: 1

Wage type		Amount	Wage type		Amount
0001	Basic Pay	32,670.00	1000	House Rent Allowance	4,433.00
1210	Convey Allowance 2005	5,000.00	1916	UAA-CHITRAL 50%(17-22)	4,500.00
1947	Medical Allow 15% (16-22)	1,846.00	2211	Adhoc Relief All 2016 10%	2,544.00
2224	Adhoc Relief All 2017 10%	3,267.00	2247	Adhoc Relief All 2018 10%	3,267.00
2265	Adhoc Relief All 2019 05%	1,633.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3017	GPF Subscription	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-344.00	3990	Emp.Edu. Fund KPK	-250.00
4004	R. Benefits & Death Comp:	-900.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable: 5,246.20 Recovered till August-2020: 501.00 Exempted: 1310.90 Recoverable: 3,434.30

Gross Pay (Rs.): 59,160.00 Deductions: (Rs.): -6,564.00 Net Pay: (Rs.): 52,596.00

Payee Name: NEELUM SYEED

Account Number: 0382790067270

Bank Details: HABIB BANK LIMITED, 220382 BUNY CHITRAL BUNY CHITRAL,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: 17200

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

**ATTACHED  
TO BE TRUE COPY**

5

Case B4

**BEFORE THE SECRETARY HIGHER EDUCATION,  
ARCHIVES AND LIBRARIES DEPARTMENT, KPK  
PESHAWAR**

**Subject:- Departmental Appeal for the payment  
of Conveyance Allowance during Summer and  
Winter vacations and declaring the deduction of  
the same as illegal and unlawful**

**Respectfully Submitted:-**

1. That the appellant is serving as Lecturer (Psychology) (BPs-17) Govt. Girls Degree College, Chitral Upper and the department in which she is serving is vacation department wherein the conveyance allowance cannot be deducted as per law and rules. Even the deduction of conveyance has been declared illegal by the Service Tribunal in many appeals. The deduction of conveyance allowance as such during summer and winter vacations is illegal and the appellant is entitled to be paid the deducted amount in this respect.

**It is therefore prayed that on acceptance of this appeal, Conveyance Allowance during summer and winter vacations may not be deducted from the appellant and pay back the appellant the deducted amount in this respect.**

*Neelum*

Dated:- 27-07-2020

**Mst. Neelum Sayed**

Lecturer (Psychology) (BPs-17)  
Govt. Girls Degree College Chitral  
Upper

**ATTESTED  
TO BE TRUE COPY**



10

VAKALATNAMA

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. \_\_\_\_\_/2020

Mst. Neelum Sayed .....Appellant

**VERSUS**


Govt. and others ..... Respondents

I/We, the undersigned, do hereby appoint and constitute **Fazal Shah Mohmand** Advocate Supreme Court & **Rabia Muzaffar** Advocate Peshawar. To act, appear and plead in the above-mentioned matter and to withdraw or compromise the said matter or submit to arbitration any differences or dispute that shall arise touching or in any manner relating to the said matter and to receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said matter.

1. To draft and sign files at necessary pleadings, applications, objections, affidavits or other documents as shall be deemed necessary and advisable for the prosecution of the said matter at all its stages.
2. To employ any other Legal Practitioner, authorizing him to exercise the power as conferred on the undersigned Advocate, wherever he may think fit to do so.

AND I/We hereby agree to ratify whatever the Advocate or his substitute shall do in the above matter. I/We also hereby agree not to hold the Advocate or his substitute responsible for the result of the said matter in consequence of his absence from the Court when the said matter is called up for hearing. I/We further hereby agree that in the event for the whole or any part of the fee to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the above matter. Received by me on 18-11-2020


ACCEPTED BY:

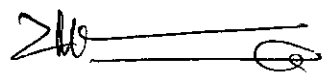
  
**FAZAL SHAH MOHMAND**  
Advocate,  
Supreme Court of Pakistan.

  
CLIENT(s)

&

ACCEPTED BY:

  
**RABIA MUZAFFAR**  
Advocate Peshawar.

  
**ZIA UD DIN**  
Advocate Peshawar.

VAKALATNAMA

OFFICE:-Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841.  
(Clerk) Cell# 03339214136  
Email: - fazalshahmohmand@gmail.com.