
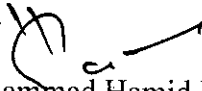


17.07.2018

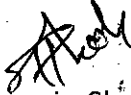
Appellant absent. Learned counsel for the appellant absent.
~~Learned counsel for the appellant absent.~~ Adjournd. To come up
for arguments on 10.09.2018 before D.B

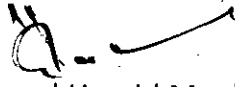

(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

10.09.2018

Appellant absent. Learned counsel for appellant absent. Mr.
Usman Ghani for respondents present. Case called for several times
but no one appeared on behalf of appellant. Consequently the
present service appeal is dismissed in default. No order as to costs.
File be consigned to the record room.



(Hussain Shah)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED.
11.09.2018

09.01.2018

None for the appellant present. Asst: AG for respondents present. Notices be issued to the appellant and his counsel. Adjourned. To come up for arguments on 12.03.2018 before D.B.



(Ahmad Hassan)
Member(E)


(M. Hamid Mughal)
Member (J)

12.03.2018

Counsel for the appellant and Mr. Riaz Ahmed Pinda Kheil, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Member copy of the instant appeal is also not available on record. Learned counsel for the appellant is directed to provide the same on or before the next date of hearing. Adjourned. To come up for arguments on 02.05.2018 before D.B.


(Muhammad Amfin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

02.05.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General alongwith Zaki Ullah Senior Auditor for the respondents present. The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore the case is adjourned. To come up for the same on 17.07.2018


READER

8. 22.05.2017


Counsel for the appellant and Khurshid Khan, SO alongwith Addl. AG for the respondents present. Written reply submitted. Cost of Rs. 500/- also paid and receipt thereof obtained from the learned counsel for the appellant. To come up for rejoinder and arguments on 12.07.2017 before D.B.


(Ahmad Hassan)
Member

09. 12.07.2017

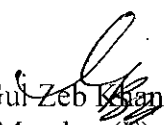
None for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for present. Notice be issued to the appellant and his counsel. To come up for arguments on 08.11.2017 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

08.11.2017

Junior counsel for the appellant present. Mr. ~~Zia~~ Ullah, Deputy District Attorney for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 09.01.2018 before D.B.


(Gul Zeb Khan)
Member (E)


(Muhammad Amin Khan Kundi)
Member (J)

1201/16

22.03.2017

6. Counsel for the appellant, M/S Hameedur Rahman, AD and Raham Taj, ADO alongwith Asstt. AG for the respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 20.04.2017 before S.B.


Chairman

20.04.2017

7. Clerk to counsel for the appellant and Mr. Zakiullah, Senior Auditor alongwith Addl. AG for the respondents present. Written reply submitted on behalf of respondent No. 4. Remaining respondents not submitted written reply despite last opportunities. Requested for further adjournment. Last opportunity further extended subject to payment of cost of Rs. 500/- which shall be borne by respondents No. 1 to 3 from their own pockets. To come up for written reply/comments and cost on 22.05.2017 before S.B.


(Muhammad Amin Khan Kundi)

Member

h 11.01.2017

Counsel for the appellant argued that identical service appeal No. 244/2015 has already been admitted for full hearing.

In view of the above the instant appeal is also admitted for regular hearing and to be heard alongwith the said service appeal. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents. To come up for written reply/comments on 15.02.2017 before S.B.


Chairman

5 15.02.2017

Clerk to counsel for the appellant and Addl. AG for respondents present. Security and process fee not deposited. Appellant is directed to deposit security and process fee within seven (7) days, thereafter notices be issued to the respondents for written reply/comments on 22.03.2017 before S.B.

Appellant Deposited
Security & Process Fee







(AHMAD HASSAN)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1201/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/12/2016	<p>The appeal of Mr. Aziz Ullah presented today by Mr. Shakeel Ahmad Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26-12-16</u></p> <p> MEMBER</p>
3'	26.12.2016	<p>Agent of counsel for the appellant present. Seeks adjournment as counsel for the appellant has gone to perform Umra. Adjourned for preliminary hearing to 11-01-2017 before S.B.</p> <p> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 1201 /2016

Aziz Ullah.....Appellant

V E R S U S

Govt. of Khyber Pakhtunkhwa
Through Chief Secretary & others.....Respondents

I N D E X

S.No	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal		1-4
2.	Affidavit		5
3.	Addresses of the parties		6
4.	Copy of Pay slip	A	7-8
5.	Copy of Service Card	B	9
6.	Copy of judgment dated 23.12.2015 of Service Tribunal Sindh	C	10-16
7.	Departmental appeal	D	17
8.	Wakalatnama		

Aziz Ullah
Appellant

Through

Shakeel Ahmad

SHAKEEL AHMAD
Advocate, Peshawar
Cell: 0321-9179188

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,

PESHAWAR

Service Appeal No. 1201 /2016

Khyber Pakhtunkhwa
Services Tribunal

Diary No. 1252

Dated 02-12-2016

Aziz Ullah S/o Karim Ullah
S.P.S.T, GPS Gulbahar No.4 Peshawar **Appellant**

V E R S U S

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
2. Govt. of Khyber Pakhtunkhwa, through Finance Secretary, Civil Secretariat, Peshawar.
3. Govt. of Khyber Pakhtunkhwa through ^{secy.} Elementary & Secondary Education & literacy Department, Civic Secretariat, Peshawar
4. Accountant General, KPK, Peshawar
Opposite Services Ground Peshawar

..... **Respondents**

**APPEAL UNDER SECTION 4 OF THE KPK
SERVICE TRIBUNAL AGAINST THE
IMPUGNED ACT OF THE RESPONDENTS,
WHEREBY CONVEYANCE ALLOWANCE IS
BEING DEDUCTED FROM THE SALARY OF
THE APPELLANT DURING SUMMER
VACATIONS/VACATIONS.**

Filed to Day

Sanjiv
Registrar 02/12/16

Respectfully Sheweth:

Short facts giving rise to the present appeal are as under:

1. That the appellant is serving as SPST, and presently posted at Govt. Primary School Gulbahar No.4 Peshawar.
2. That the appellant and other teachers holding the post of SPST, HPST, PST, SS and SST are being paid conveyance allowance, but the same is deducted during summer vacations/vacations.
3. That not contented with the act of the respondents the appellant submitted Departmental Appeal to the respondent No.3, but, it was not responded till today hence, feeling aggrieved the appellant now approaches this Honourable Tribunal, inter alia, on the following grounds:

GROUND S:

- A. That deduction of conveyance allowance from the salary of the appellant during summer vacations/vacations is illegal, without lawful authority, without jurisdiction, malafide discriminatory, void ab initio and ineffective upon the rights of the appellant.

- B. That the respondents do not deduct conveyance allowance from the salary of the Head Master, Principals and Teachers of Higher Education Colleges during summer vacation/vacations, but under similar circumstances it is being deducted from the salary of the appellant, SPST, CT, PST, SS and SST (teachers), which offends Article 25 of the constitution of Islamic republic of Pakistan, 1973.
- C. That under the law the vacation counts as duty and the same cannot be treated as leave, hence, deduction of conveyance allowance from the salary of the appellant during summer vacation/vacations is violative of law applicable to the case, therefore warrants interference.
- D. That the summer vacation/vacations is a holiday and is not a leave of any kind and the conveyance allowance being deducted during vacations is not permitted by law.
- E. That it is an inalienable right of every citizen of Pakistan that he should be treated in accordance with law, the respondents are denying payment of conveyance allowance to the appellant and to the other teachers during

summer vacation/vacations, the appellant has not been treated in accordance with law, which is violative of the 8 and 4 of the constitution of Islamic republic of Pakistan. 1973.

- F. That under similar circumstances the Service Tribunal Sindh allowed appeal of the aggrieved person and directed the Govt. of Singh to pay conveyance allowance during summer vacation/vacations vide judgment dated 23.12.2015, hence the appellant is liable to be given the same treatment.

It is, therefore, most humbly prayed that on acceptance of this Service Appeal, the deduction of conveyance allowance from the salary of the appellant during summer vacation/vacations declared as illegal, without lawful authority, without jurisdiction, malafide discriminatory and the respondents be directed to pay the conveyance allowance to the appellant during summer vacation/vacations from the date of his entitlement.


Appellant

Through



SHAKEEL AHMAD
Advocate, Peshawar

Dated: 16.11.2016

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2016

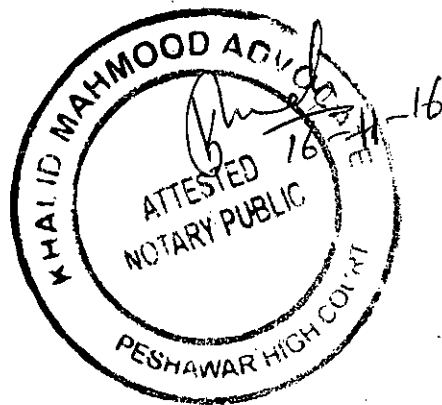
Aziz Ullah.....Appellant

V E R S U S

Govt. of Khyber Pakhtunkhwa
 Through Chief Secretary & others.....Respondents

A F F I D A V I T

I, Aziz Ullah S/o Karim Ullah S.P.S.T, GPS Gulbahar No.4 Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.



Aziz Ullah
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2016

Aziz Ullah.....Appellant

V E R S U S

Govt. of Khyber Pakhtunkhwa
 Through Chief Secretary & others.....Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Aziz Ullah S/o Karim Ullah
 S.P.S.T, GPS Gulbahar No.4 Peshawar

RESPONDENTS:

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
2. Govt. of Khyber Pakhtunkhwa, through Finance Secretary, Civil Secretariat, Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Elementary & Secondary Education & literacy Department, Civic Secretariat, Peshawar
4. Accountant General, KPK, Peshawar
 Opposite Services Ground Peshawar

Aziz Ullah
 Appellant

Through

Shakeel Ahmad
SHAKEEL AHMAD

Advocate, Peshawar

Dated: 16/11/2016

(10)



BEFORE THE SINDH SERVICE TRIBUNAL AT KARACHI

PRESENT:-

JUSTICE (R) MUJEEBULLAH SIDDIQUI, CHAIRMAN
AMEER FAISAL, MEMBER-I

APPEAL NO. 1231 OF 2015

Zahid Hussain Hulio,
S/o Noor Muhammad,
Subject Specialist @ Government Pilot
Higher Education Secondary School
Larkana.....Appellant.

V E R S U S

1. Chief Secretary to Government to Sindh,
Sindh Secretariat,
Karachi.
2. Finance Secretary Government of Sindh,
Sindh Secretariat,
Karachi.
3. Secretary Education & Literacy Department,
Government of Sindh,
Sindh Secretariat,
Karachi.
4. Accountant General Sindh, Karachi,
Accounts & Audit Complex,
Nipa Chowrangi, University Road,
Karachi.....Respondents

Zahid Hussain Hulio, appellant present in person.

Mr. S. Kamil Shah, AAG Sindh alongwith Mr. Khalid Malik,
Section Officer, Finance Department for respondents.

Date of Hearing:- 16.12.2015

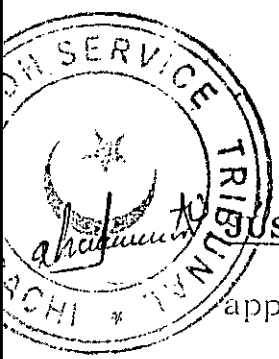
Date of Judgment:- 23.12.2015

ATTENDED

J U D G M E N T

JUSTICE (R) MUJEEBULLAH SIDDIQUI, CHAIRMAN: The
appellant is a Subject Specialist at Government Pilot Higher

CANCELLED



(11)

(2)

Secondary School, Larkana. According to him Conveyance Allowance was granted to the government employees serving within territorial jurisdiction of Larkana City at the prescribed rates as admissible to the government employees posted at Karachi, Hyderabad and Sukkur without terms and conditions. The notification dated 15.07.2008 is reproduced below:-

No FD (SR-III) 5/20-228
Government of Sindh
Finance Department
Karachi dated the 15 July 2013

From,

Ghulam Ali Shah Pasha,
Additional Chief Secretary.

To,

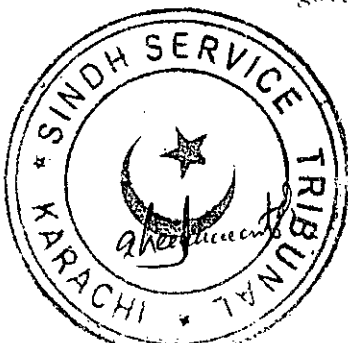
1. The Chief Secretary to Government of Sindh.
2. All Additional Chief Secretaries in Government of Sindh.
3. The Senior Member Board Of Revenue, Sindh
4. All Administrative Secretaries to Government Of Sindh
5. All Members Board of Revenue of Sindh
6. The Principal Secretary to Chief Minister Sindh
7. The Principal Secretary to Government of Sindh
8. The Secretary to Provincial Assembly Sindh
9. All Heads of Attached Departments Sindh.
10. All Regional Heads of Departments Sindh.
11. All Districts & Sessions Judges Sindh.
12. The Registrar, High Court of Sindh.
13. All District Coordination Officers in Sindh.
14. The Registrar Sindh Service Tribunal, Karachi.
15. The Secretary, Sindh Public Service Tribunal Karachi.
16. The Secretary Provincial Ombudsman Secretariat Sindh Karachi.

Subject:- ENHANCEMENT OF HOUSE RENT ALLOWANCE CONVEYANCE ALLOWANCE TO EMPLOYEES POSTED IN THE JURISDICTION OF LARKANA MUNICIPAL CORPORATION.

Sir,

I am directed to refer to the subject noted above and to state that with the approval of the Competent Authority i.e. Chief Minister Sindh has been pleased to allow the following facilities to the Government employees performing their duties under the jurisdiction of Larkana Municipal Corporation with immediate effect, on the following, on the analogy of the Sukkur Municipal Corporation:-

- (i) House Rent Allowance at the rate of 45% of the minimum of their pay scales.
- (ii) Conveyance Allowance at the prescribed rates, as admissible to the government employees posted at Karachi, Hyderabad and Sukkur.



(IQBAL AHMED M. SHAIKH)
Deputy Secretary (SR-II)
For Secretary to Government of Sindh

ATTESTED

(18)

~~18~~

2. It is further contended that the Conveyance Allowance was extended to all the civil servants in BPS-01 to BPS-15 across the Sindh vide Notification dated 16.01.2011. The grievance of the appellant is that the Finance Department, Government of Sindh, vide its letter No.FD(SR-I)I-I/Conveyance/2013, issued a clarification to the effect that Conveyance Allowance is not admissible to the teaching staff during summer vacation in Sindh. The letter reads as follows:-

"No.FD(SR-I)I-I/ Conveyance/2013
GOVERNMENT OF SINDH
FINANCE DEPARTMENT

Karachi dated the 3rd December/2013

1. The Accountant General Sindh,
P&A Complex near NIPA Chowranghi, University Road,
Gulshan-elqbal.
2. The District Accounts Officers (ALL),
In Sindh.
3. The Treasury Officer,
Karachi.

SUBJECT:- DEDUCTION OF CONVEYANCE ALLOWANCE DURING SUMMER VACATION FROM TEACHING STAFF

I am directed to refer to the subject noted above and to clarify that the conveyance allowance is not admissible to the teaching staff as usual relates to the Educational Institution during Summer Vacation in Sindh.

Sd/-
(SYED NISAR AHMED SHAH)
SECTION OFFICER-(SR-III)"

It is contended that this clarification is discriminatory and is infringement of fundamental rights. It is pleaded that the deduction of conveyance allowance during vacation in respect of teachers from primary to college level amounts to snatching basic right of living.

The appellant preferred appeal which remained un-decided and hence this appeal before Tribunal.

ATTESTED



3. In the grounds of appeal it is submitted that the deduction of conveyance allowance during summer vacation/winter vacation in respect of teachers tantamounts to a major penalty. He has further placed reliance on rule 737. According to this rule a vacation department, is subject to the exceptions and to the extent stated in rule 738, a department or part of the department to which regular vacation are allowed during which government servants serving in the department are permitted to be absent from duty. In rule 738 classes of government servants serving in vacation department when the condition of rule 737 are fulfilled are specified.

The following are included in it:-

"Officers and inferior Government servants of the Educational Department including the staffs in schools and Colleges, both Arts and Professional except Administrative and Inspecting officers and their establishments and the educational staff of their establishments and the educational staff of the Criminal Tribes Settlement Schools."

He has further placed reliance on rule 747 according to which vacation counts as duty. The appellant has prayed to set-aside the notification dated 03.12.2013 containing deduction of conveyance allowance during summer vacation in respect of teaching staff related to the educational institutions serving in Sindh, being without authority and of no legal effect because the vacation is holiday which is not leave of any kind.

4. The respondent No.1, Chief Secretary to the Government of Sindh and respondent No.4, Accountant General Sindh have not filed written statements. The appeal has proceeded ex-parte against them. The respondent Nos. 2 & 3 have filed their written statements. The respondent No.3, Secretary, Education & Literacy Department has merely referred to the impugned clarification issued by the Finance Department.



ATTESTED

5. The respondent No.2, Finance Secretary has admitted that the conveyance allowance was granted to the government employees serving within the territorial jurisdiction of Larkana City at the prescribed rates as admissible to the government employees posted at Karachi, Hyderabad and Sukkur. It is further admitted that the benefit of conveyance allowance was extended to all the civil servants in BPS-01 to 15 across the Sindh vide notification dated 16.07.2011. It is further admitted that the Finance Department issued the impugned clarification. It is contended that in summer/winter vacation schools and colleges are closed hence there is no point of performing duty during such vacation. It is further contended in the written statement of respondent No.2, the Finance Secretary that the conveyance allowance is not admissible during any kind of leave except casual leave. The respondent No.2 has produced copy of office memorandum regarding teaching allowance to all teachers of Education Department Sindh. It is stated in the letter dated 10.09.2014 that the department's office memorandum dated 22.07.2014 regarding entitlement of the teaching allowance is kept in abeyance till further orders. It is not explained as to what is the relevance of this letter which pertains to the teaching allowance. It is further contended that the vacation availed by the teachers during summer/winter season is alternate of leave granted to other government servants. A comparison is given which is reproduced below:

Leave Admissible to Government Servants

Leave Admissible to Teachers

48 Days Earned Leave
24 Days Casual Leave

60 Days Leave Summer Vacation
10 Days Leave Winter Vacation
12 Days Casual Leave
82 Days Leaves

Total:

72 Days Leaves

ATTESTED



is further contended that from the above comparison it emerges that teachers are availing 82 days leave out of which 72 days leave is

(15)

(6)

on account of summer/winter vacations whereas other government servants are availing 72 days leave out of which 48 days are earned leave. According to respondent No.2, the Secretary Finance, a period of 70 days leave availed by teachers during summer/winter vacation are alternate of earned leave. According to the Finance Secretary teachers are availing 10 days leave in excess. It is further asserted that the government servants performing duties are entitled to compensatory allowance, however, no duty is performed in vacation. It is admitted that the conveyance allowance is included in the compensatory allowance. It is reiterated that during vacation neither any work/job is performed nor any financial loss is incurred on account of attending office/job, hence deduction is justified. It is further averred that the teachers are allowed to be absent from duty is the reason that teachers are allowed salary/pay. The only deduction being made in the salary is the conveyance allowance. It is further stated in the written statement that the conveyance means act of taking or carrying someone or something from one place to another; in this case, the transportation of government servants from home to school/college for performing duty. It is contended that request of appellant that grant of conveyance allowance during leave on account of summer/winter vacations merits no consideration.

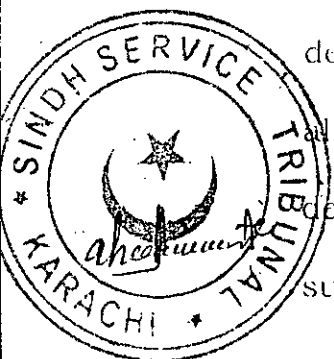
6. We have heard, the appellant in person and the learned AAG assisted by Mr. Khalid Malik, Section Officer, Finance Department. The appellant as well as the learned AAG and Section Officer, Finance Department, have mainly reiterated the contentions contained in the memo of appeal and the written statement.

7. The reason prevailing with the Finance Department for issuing impugned clarification to the effect that conveyance allowance is not admissible to the teaching staff during the summer vacations is that it amounts to leave for the reason that during summer



ATTORNEY GENERAL

vacation no duty is performed. However, the learned AAG and the Section Officer present were not able to rebut the contention of the appellant that under rule 747 (a) the vacation counts as duty and that in case of government servants subject to the special and ordinary rules the period of total leave in rule 732, 736 (a) & 736 (b) shall ordinary be reduced by one month for each year of duty in which the government servants have availed himself of the vacation. If a part only of the vacation have been taken in any order, the period to be deducted will be a fraction of the month equal to the proportion which the part of the vacation taken bears to the full period of the vacation. Thus the sole effect is that vacation is to be treated as duty and not as leave but the period to which a government servants availing vacation shall have the effect of reducing the leave entitlement. When rule 747 (a) itself states that the vacation is to be counted as duty the Finance Department has no authority to hold that the vacation is the alternate of the leave granted to other government servants. The comparison given under the written statement is totally un-called for and misconceived. The impugned clarification is violative of the rules contained in the Sindh Civil Service Rules Manual Volume-I. It is not sustainable in law which is hereby declared to be violative of the Sindh Civil Service Rules and is consequently set-aside. It is held that the appellant and all the civil servants serving in vacation departments are allowed to receive the conveyance allowance during summer vacation and winter vacation. The vacation is a holiday and is not a leave of any kind and the conveyance allowance during the vacation is not permitted to be deducted. The respondents are directed to pay the conveyance allowance to the appellant and all the employees of the vacation departments who are entitled to the conveyance allowance during the summer and winter vacations.

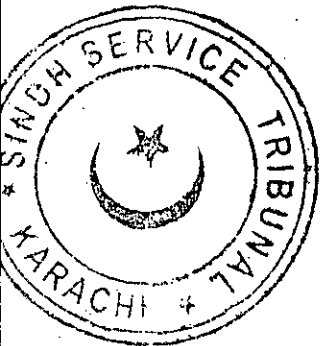


ATTESTED

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~~17~~

The appeal is allowed accordingly. The respondent No.2, Finance Secretary, Government of Sindh, Respondent No.3, Secretary, Education & Literacy Department, Government of Sindh and Respondent No.4, Accountant General Sindh, Karachi, are directed to circulate copy^s of this judgment to all the District Accounts Officers in Sindh and the Treasury Officer, Karachi with the direction to comply with and implement this judgment forthwith.



Sd/-
(JUSTICE (R) MUJEEBULLAH SIDDIQUI)
CHAIRMAN
Sd/-
(AMEER FAISAL)
MEMBER-I

COPY APPLIED FOR ON 4-8-2016
FEES ESTIMATED ON 4-8-2016
ESTIMATED FEES DEPOSITED ON 4-8-2016
STAMPS SUPPLIED ON 4-8-2016
COPY CERTIFIED ON 4-8-2016
COPY DELIVERED ON 4-8-2016
COPYING FEE RS. 242
URGENT FEE RS. 1
COMPARING FEE RS. —
PAPER CHARGES RS. —

WAQAS

TOTAL RS. 242

TYPED BY photo
COMPARED BY

CERTIFIED TRUE COPY
ISSUED THIS THE 04th
DAY OF August 2016
(Signature)

REGISTRAR

(Signature)
418

ATTACHED

محترم جناب سیکرٹری ایجوکیشن ایبھریٹی کھٹو کھوہ
عنوانی۔ ایل براء بمالی کنولنس الائنس

جناب عالی! سرور باسلام گزشتہ ہے
کہ گریجویٹوں میں اور سرورہ صحیفوں میں
اساتذہ کرام سے کٹوتی الاونسی کٹوتی
جاری ہے۔ مگر حال حکومت وقت نے کوی نظر ثانی
کے لیے کردی۔ بار بار ٹائپڈ باوجود عمل درآمد
کے کی جاتی۔ سٹیٹس۔ پرنسپل اور صاحب اساتذہ
سے کٹوتی لینی جاسکتی ہے۔ مگر صرف
پرائمری۔ ایلیمینٹری اور سکنڈری اساتذہ سے کٹوتی کی جارہی ہے
آپ صاحبان میری بانی کے صحیفوں میں کٹوتی الاونسی
بمالی حکم جاری کر دیں۔ لہذا میری بانی صوفی

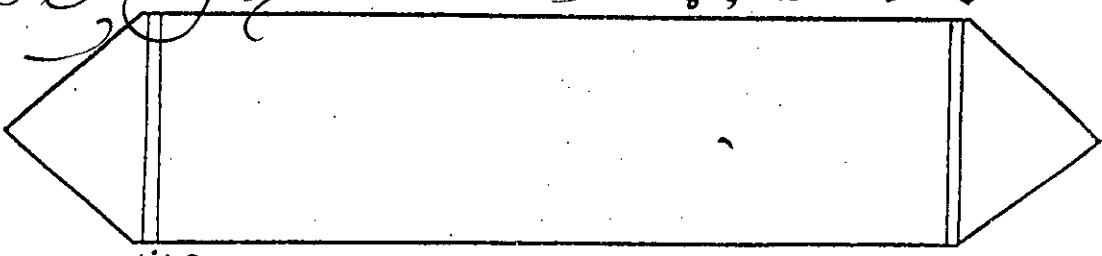
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الفاظ

عزیز اللہ سید پرائمری سیکرٹری
مگور کھنڈ پرائمری سکول
تمبھہ تلیسا پورہ

صفحہ 15/8/16

بعد الت حسبہ کھلو کجواہ سووس ٹرنوئل سٹاف



بنام گورنمنٹ
۲۰۰۷
۲۰۰۷

عبداللہ

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کاروائی متعلقہ

آن مقام سٹار کیلئے بندگی اور اس کی

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
دکیل صاحب کو رضی نامہ کرنے و تقرر ثالت ہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک در و پیر عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم _____ ماہ _____ ۲۰۰۷

العبد _____ واہ العبد

بمقام _____ کے لئے منظور ہے۔

Accepted
Accepted
AZIZULLAH

AZIZULLAH

A
AZIZULLAH

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

S.A.# 1201/2016.

Aziz Ullah.....Appellant.

VERSUS

Secretary E&SE, Govt: of Khyber Pakhtunkhwa & others..... **Respondents.**

PARAWISE COMMENTS FOR & ON BEHALF OF THE RESPONDENTS No.1, 2 & 3.

Respectfully Sheweth,

The Respondents submit as under:-

Preliminary Objections

1. That the appellant has got no cause of action/locus standi.
2. That the instant appeal is badly time barred.
3. That the instant Appeal is not maintainable in its present form.
4. That the instant Appeal is bad for mis-joinder and non-joinder of the necessary parties.
5. The appellant has not come to this Hon'able Tribunal with clean hands.
6. That the instant appeal is barred by law.
7. That this Hon'able Tribunal has got no jurisdiction to adjudicate upon the instant Service Appeal.
8. That the Appeal is bad by Law.
9. That the appellant does not fall within the ambit of aggrieved person.
10. That there is no final order as required under Section-4 of Service Tribunal Act.

FACTS.

1. That Para-1 pertains to record, hence no comments.
2. That Para-2 is correct.
3. That in reply to Para-3, it is submitted that conveyance allowance is not permissible under the rules to the teachers during the summer vacations, therefore, the appellant has no cause of action/locus standi, hence the Departmental Appeal was baseless.

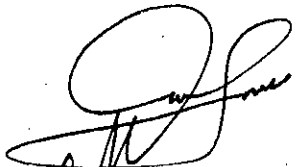
Moreover, neither the appellant falls within the ambit of aggrieved person nor, being a policy matter, this Hon'able Court has no jurisdiction to adjudicate upon the instant matter.

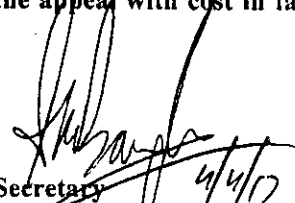
Grounds

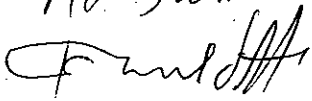
- A. That Ground-A is incorrect and denied. The Respondents have acted according to law, rules and policy.

- B. That in reply to Ground-B, it is submitted that conveyance allowance is not deducted from the salaries of Headmaster, Principals during summer vacations because they attend their duties regularly during the summer vacations and the same is deducted from the teachers because they do not perform duty during summer vacations.
- C. That the reply of Ground-C is given in Ground-B.
- D. That the reply of Ground-D is also given in Ground-B.
- E. That Ground-E is incorrect and denied, because the teaching staff do not perform duty during summer vacations, therefore, they are not entitled for conveyance allowance during summer vacations.
- F. That Ground-F pertains to record. However, the same has not been allowed under rules prevalent in this Province.

In view of the above made submissions, it is, therefore, most humbly prayed that this Honourable Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the Respondents.


Secretary
Finance Department.


Secretary
Elementary & Secondary Education Department.
(Respondents No 1 & 3)

Attested

Section Officer (Litigation)
E&S Education Department
Govt. of Khyber Pakhtunkhwa

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No. 1201/2016

Aziz Ullah.....Appellant.

V/S

Chief Secretary, Government of Khyber Pakhtunkhwa, and others.....Respondents.

(Reply on behalf of respondent No.4)

Preliminary Objections.

- 1). That the appellant has no cause of action.
- 2). That the appellant has no locus standi.
- 3). That the appeal in hand is time barred..
- 4). That the appellant is bad due to joinder and misjoinder of necessary parties.

Respectfully Sheweth:-

Para No. 1 to 4:-

It is submitted that the matter is totally administrative in nature and concerned with respondent No. 2 & 3, They are in better position to satisfy the grievances of the petitioner.

It is pertinent to mention here that Finance Department of Khyber Pakhtunkhwa is the competent authority in such like cases. Without the sanction of the Finance Department Government of Khyber Pakhtunkhwa such like matters cannot be entertained.

Keeping in view the above mentioned facts, it is therefore, humbly prayed that the appeal in hand, having no merits, may be dismissed with cost.


ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA