

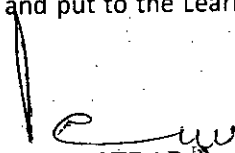

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Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 16863 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1.	2	3
1-	31/12/2020	<p>The appeal presented today by Mr. Abbas Khan 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>4-3-21</u></p> <p style="text-align: right;">MEMBER(J)</p>
2-	04.03.2021	<p>Learned Member (J) is under transfer, therefore the case is adjourned to 29.07.2021 before S.B.</p> <p style="text-align: right;"> READER</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2020

Imran ullah

.....APPELLANT

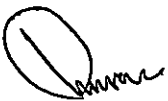
VERSUS

The Government of Khyber Pakhtunkhwa and others

.....RESPONDENTS

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Grounds of Appeal		1-7
	Application for interim relief		8-9
2.	Copy of the Notification dated 20.12.2012	A	10
3.	Copies of the Salary Slips of working/serving month and vacations (deduction period)	B & C	11-12
4	Copy of departmental appeal	D	13
5	Copy of the Notification dated 20.12.2012	B	10
6	Wakalat Nama		14


APPELLANT

Imran ullah

THROUGH:


ABBAS KHAN MOHMAND
ADVOCATE

&


ISRAR UL HAQ ADVOCATE

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

APPEAL NO. 16863 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 17095

Dated 31/12/2020

Imran ullah S/o

PST (BPS-12),

GPS ,chukyatan Upper Dir.

.....**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**

**Filed to-day 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**

Registrar
31/12/20

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 appellants.

R/SHEWETH:

ON FACTS:

- 1- That the appellant is serving in the Elementary & Secondary Education Department as Secondary School Teachers (BPS-16) 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 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 appellant feeling aggrieved from the action of the respondents regarding deduction of conveyance allowance in vacations period/months filed Departmental appeal but no reply has been received so far. That feeling aggrieved their other colleagues filed Writ Petition No. 3162-P/2019 before the Peshawar High Court, Peshawar which was disposed of vide judgment dated 01.10.2019 with the directions to approach the proper forum i.e. Service Tribunal. (copy of Departmental appeal is annexed as annexure **D**)

5- That some of colleagues of the appellant approached to this august Tribunal in different service appeal which was allowed by this august Tribunal vide its judgment dated 11.11.2019.

6- That where after the appellant waited for the statutory period of ninety days but no reply has been received from the respondents. That appellants feeling aggrieved and having no

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other remedy filed the instant service appeal on the following grounds amongst the others.

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 has 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

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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 aspect and illegally and without any authority started the recovery and deduction of conveyance allowance from appellants.

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

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the appellant fully entitle for the grant of conveyance allowance during vacations.

J- That the appellant 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 appellants may be accepted as prayed for.


APPELLANT

THROUGH:


ABBAS KHAN MOHMAND
ADVOCATE

& 
ISRAR UL HAQ ADVOCATE

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2020

Imran ullah

.....APPELLANTS

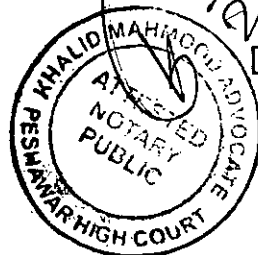
VERSUS

The Government of Khyber Pakhtunkhwa and others

.....RESPONDENTS

AFFIDAVIT

I **Imran ullah s/o** **R/o Upper Dir,** do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2020

Imran ullah

.....APPELLANT

VERSUS

The Government of Khyber Pakhtunkhwa and others

.....RESPONDENTS

APPLICATION FOR RESTRAINING THE RESPONDENTS
FROM RECOVERY AND ONWARD DEDUCTION OF
CONVEYANCE ALLOWANCE DURING VACATION PERIOD.

Respected Sheweth,

1. That the applicant filed above mentioned appeal along with this application before this Hon'ble Service Tribunal in which no date has been fixed so far.
2. That applicant filed the above mentioned appeal against the impugned action of the respondents by illegal and unlawfully deducting the conveyance allowance during the winter and summer vacations.
3. That the impugned action of the respondents by deducting conveyance allowance during winter & summer vacations is utter violation of law and rules.

4. That all the three ingredients necessary for the stay is in favour of the appellants.
5. That the grounds of the main appeal also be considered as integral part of this application.

It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be restrained from recovery and onward deduction of conveyance allowance during vacations period till disposal of the above mentioned appeal.

[Signature]
APPELLANT

THROUGH:

[Signature]
ABBAS KHAN MOHMAND ADVOCATE

[Signature]
ISRAR UL HAQ ADVOCATE



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD/SO(SR-III)8-52/2012
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 in Khyber Pakhtunkhwa
8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
9. The Registrar, Peshawar High Court, Peshawar
10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa
11. The Chairman, Services 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/-	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 vehicles.

Yours Faithfully
ATTESTED
To Be True Copy

ATTESTED

(Sahibzada Saad Ahmad)
Secretary Finance

Encls: NO. FD/SO(SR-III)8-52/2012

Dated Peshawar the 20th December, 2012

A Copy is forwarded for information to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Secretaries to Government of Punjab, Sindh & Balochistan Finance Department
3. All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa

(INTIAZ AYUB)

Additional Secretary (Board)

(13)

Annex 'D'

To,

The Secretary (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 *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 Hon'ble Service Tribunal vide its judgment dated 03.12.2018. That I also the similar employee of Education Department and under the principle 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 conveyance 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: 24.07.2020

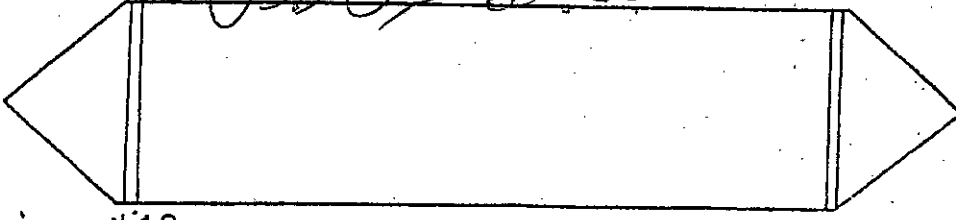
Yours obediently,

Imran Ullah (BPS-12)

GPS Qilla chukyatan

ATTACHED
To Be File

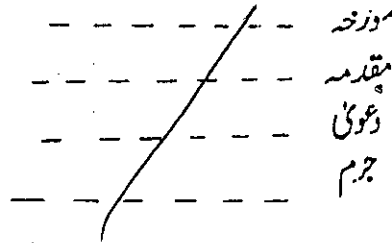
بعدالت صاحب ایج سوئس ٹریڈنگ کمپنی



2 منجانب

بنام حکومت

محکمہ اعلیٰ



موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ
آن مقام کے لیے عبدالرحمن خان صاحب کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار دیا گیا۔ نیز
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار دیا گیا۔ نیز
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر خلاف دیے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی
بیز دائرہ کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی 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 بالا اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا اوقات نامہ لکھ دیا کہ سند ہے۔

عبدالرحمن خان صاحب

المرقوم _____ ماہ _____ 2020

واہ الع

مقام کار Acceptad

Abbas Khan Mohamed

Advocate