Form- A

FORM OF ORDER SHEET

Court or	<u> </u>			 	٠.
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	1. 1	02-	_		
e No		D 7 C	/2020		

	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/12/2020	The appeal presented today by Mr. Kamran Khan, Advocate
•	11/12/2020	may be entered in the Institution Register and put to the Learned Membe
		for proper order please.
	1.4	
		DECICEDAD
٠		REGISTRAR
. .	08-02-2	This case is entrusted to S. Bench for preliminary hearing to be pu
		up there on <u>3 / 3/2/</u>
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		MEMBER(J)
خ م	- 2024 Th	ne learned Member Judicial Mr. Muhammad Jamal Khar
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	unde	transfer, therefore, the case is adjourned. To come up
	the s	me before S.B on 28.07.2021.
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO	/2020
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JAMIL AHMAD

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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5.	Service Tribunal judgment	. E	8- 9.
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

APPEAL NO. /202	Khyber Pakhtukuwa Service Tribunul
ATTEAL 110	Diary No. 16427
Mr. Jamil Ahmad, SST (BPS-15),	Duted 11/12/2020
GHS Chakisar, District Shangla.	Duted Company
	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 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 & Secondary Education Department as SST (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

- 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.

appellant

JAMIL AHMAD

THROUGH:

CAMRAN KHAN ADVOCATES BETTER COPY PAGE-

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGUALITON 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. Ali 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 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)
با	1.	1-4	Rş. 1,500/-	Rs. 1,700/-
	2	5-10	Rs. 1,500/-	Rs. 1,840/-
	<u>3.</u>	11-15	Rs. 2,000/-	Rs. 2.720/-
	4.	.16-19	Rs. 5,000/-	Rs. 5,000/-

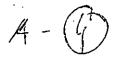
2. Conveyance Allowance at the above rates per month shall be admissible to those BPS-17, 18 and 19 officers who have not been sanctioned official vehicle.

Your Faithfully

(Sahibzada Saeed Ahmad) Secretary Finance

Endst No. FD/SO(SR-II)8-52/2012 Dated Peshawar the 20th December, 2012

M





OVERNMENT OF KHYBER TAXHTUNKHWA FINANCE DEPARTMENT (REGULATION WITH G)

NO FUSO(SR-11)-5212012 Datedigeshause the: 20-12-2012

Finance Depotions i. Peanawar.

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REVISION IN THE PATE OF CONVEYANCE ALLOWANCE FOR THE CYVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL GOVERNMENT BPS1-12

Qear Sr.

The Government of Kindler Politicative has been elebered to enhance ! nevise the rate of Conveyonce Allowance admissible to all the Provinces Guil Servanial Gove ि Navy Sept Pascheumschwar (Workland in EPSAL to EpsALS) w.e.f (rom 1º Sacremska) अवैदियाँ से the following rates. However, the conveyance blicktwice for employees in 575-15 to 605-19 itali remiglar — rakkhanigasi. j

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		3.5	500/-	R5.1.700	0/-
. 		: Te	EDDI:	RS.1:84	Ö/
<u> </u>	5-10	. 1	2,600	RS.2.77	0./
	11.55	1	5,000/	R\$.5,00	C/-
	1:3-2-2	10.421			

"Génvéyance Allewadica of the oport rates desiments shalf be adressible to Those SPS-17. 18 and 19 offices who have not been sanctioned official vehicles.

Yours Fashfully,

Sanibada Sacod Annadi Sacralary Farence

Francisco, FDISOISTE-TON-528002

· Double Passianism the 20th December, 21 7

A Copy is lockarded for information to the:-

नेहें वक्तान के तुर्व कियों। स्टब्स्टिस स्थानित स्टब्स्टिस्ट्र

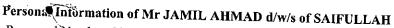
इंक्टरकार्याम् १ कि क्रिक्टरकारायस्य दर्ग में अनुबद्ध, विद्यान्ति हैंसे दिशास्त्राक्षण निमानुप्रात् प्रेष्ट्रवासीकर्ण

८४ ८ प्राप्तरकारत्वे हे जिल्ला नेपालन देशकार केट वर्ष्ट्य के उपलिख है है और एक रोगाने

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Dist. Govt. NWFP-Provincial District Accounts Office Shangla

Monthly Salary Statement (November-2019)



Personnel Number: 00443414

CNIC: 1550399227015

Date of Birth: 01.06.1981

Entry into Govt. Service: 04.12.2008

Length of Service: 10 Years 11 Months 028 Days

Employment Category: Vocational Temporary

Designation: SENIOR ENGLISH TEACHER

80004402-DISTRICT GOVERNMENT KHYBE

Payroll Section: 001

DDO Code: SH6028-HM GHS CHAKISAR

GPF A/C No:

GPF Section: 001 Interest Applied: Yes

Cash Center: **GPF** Balance:

310,442.00

Vendor Number: -3 Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 16

Pay Stage: 10

Wage type		Amount	Wage type	
0001	Basic Pay	34,110,00	1000 House Rent Allowance	Amount
<u>1210</u>	Convey Allowance 2005	5,000.00		
	Medical Allow 15% (16-22)	1,312.00	1912 Compen Allow 20% (16-N1)	1,500.00
	Adhoc Relief Allow @10%		2148 15% Adhoc Relief All-2013	740.00
	Adhoc Relief All 2017 10%	504.00	2211 Adhoc Relief All 2016 10%	2,612.00
	Adhoc Relief All 2019 10%	3,411.00	2247 Adhoc Relief All 2018 10%	3,411.00
	17 toriot Rener Air 2019 10%	3,411.00		0.00

Deductions - General

	Wage type	Amount	T -	Wage type	
3016 GPI	F Subscription		3501	Benevolent Fund	Amount
	ome Tax			Emp.Edu. Fund KPK	-800.00
4004 R. E	Benefits & Death Comp:	-650.00		The state of the s	-150.00 0.00

Deductions - Loans and Advances

'Loan	Description	Principal amount	Deduction	Balance
Deductions - Income Tax				

Payable:

4,992.66

Recovered till November-2019:

1,330.00 Exempted: 1247.10

Recoverable:

2,415.56

Gross Pay (Rs.):

Deductions: (Rs.):

-5,286.00

Net Pay: (Rs.):

53,452.00

Payee Name: JAMIL: AHMAD Account Number: 13340002613401

Bank Details: HABIB BANK LIMITED, 221334 CHAKESAR, SWAT. CHAKESAR, SWAT., SWAT.

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: SHANGLA.

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email:

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

Personal Information of Mr JAMIL AHMAD d/w/s of SAIFULLAH

Personnel Number: 00443414

CNIC: 1550399227015

Date of Birth: 01.06.1981

Entry into Govt. Service: 04.12.2008

NTN:

Length of Service: 10 Years 07 Months 029 Days

Employment Category: Vocational Temporary

Designation: SENIOR ENGLISH TEACHER

80004402-DISTRICT GOVERNMENT KHYBE

DDO Code: SH6028-HM GHS CHAKISAR

Payroll Section: 001

GPF Section: 001

Interest Applied: Yes

Cash Center:

GPF Balance:

246,668.00

Vendor Number: -

GPF A/C No:

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 16

Pay Stage: 10

Wage type		Wage type Amount Wage type		Wage type	Amount
0001	Basic Pay	34,110.00	1000	House Rent Allowance	2,727.00
1912	Compen Allow 20% (16-N1)	1,500.00	1947	Medical Allow 15% (16-22)	1,312.00
Ż148	15% Adhoc Relief All-2013	740.00		Adhoc Relief Allow @10%	504.00
2211	Adhoc Relief All 2016 10%	2,612.00	2224	Adhoc Relief All 2017 10%	3,411.00
2247	Adhoc Relief All 2018 10%	3,411.00	2264	Adhoc Relief All 2019 10%	3,411.00

Deductions - General

	Wage type	Amount		Wage type	Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax_	-113.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-1,089.00			0.00

Deductions - Loans and Advances

	·			
Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	. 177,000,00	-22.125.00	22 125 00

Deductions - Income Tax

Payable:

2,242.61

Recovered till July-2019:

113.00

Exempted: 896.18

Recoverable:

1,233.43

Gross Pay (Rs.):

Deductions: (Rs.):

-27,617.00

Net Pay: (Rs.):

26,121.00

Payee Name: JAMIL AHMAD Account Number: 13340002613401

Bank Details: HABIB BANK LIMITED, 221334 CHAKESAR, SWAT. CHAKESAR, SWAT., SWAT

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: SHANGLA.

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email:

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBLENAL

PESHAWAR

APPEAL NO. 1452 /2019

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

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 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 Fledto-day previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in Registrar favor of the appellant.

R/SHEWETH:

ATTESTON FACTS:

ce Tribunal.

2-4/18/16

1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency Pakhunkhwe 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

11.11.2019

Appeal No. 1452/2019 Markad Hayat vs Govt

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.

ANNOUNCED

11.11.2019

Certified in he ture copy

Peshawar

To,

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 SST (BPS-16) 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: 25.08.2020

JAMIL AHMAD, SST GHS Chakisar, Shangla

Your Obediently

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

	_ OF 2020
Jamil Ahmad	(APPELLANT)(PLAINTIFF) (PETITIONER)
<u>VERSUS</u>	
Education Department	(RESPONDENT) (DEFENDANT)
I/We Jamil Ahmad Do hereby appoint and constitute KAP Peshawar to appear, plead, act, comprorant arbitration for me/us as my/our Counsel/Acmatter, without any liability for his default engage/appoint any other Advocate Counauthorize the said Advocate to deposit, with behalf all sums and amounts payable or depthe above noted matter.	mise, withdraw or refer to dvocate in the above noted and with the authority to sel on my/our cost. I/we draw and receive on my/our
Dated/2020	CLIENT Manuel
	ACCEPTED

ACCEPTED
KAMRAN KHAN
ADVOCATES

OFFICE:

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