Form- A

FORM OF ORDER SHEET

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.No.	Date of order proceedings	Order or other proceedings with signature of judge	
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1-	11/11/2020	The appeal presented today by Mr. Umar Faro be entered in the Institution Register and put to the Lear	•
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL	NO.	•	_/2020

RIAZ MOHAMMAD

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	***********	1-3
2.	Notification	. A	4.
3.	Pay slips	B & C	5- 6
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5.	Service Tribunal judgment	E	8- 9
6.	Vakalatnama		10

APPELLANT

THROUGH:

UMAR FAROOQ ADOCATE HIGH COURT

FLAT NO.4 2ND FLOOR, JUMMA KHAN PLAZA WARSAK ROAD, PESHAWAR CELL NO 0313-8901647

Note: Sir,

Spare copies will be submitted After submission of the case.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO./3/2//2020

Khyber Fakhtukitwa Service Tribunal

Mr, RIAZ MOHAMMAD PST(BPS-15)

GPS SARA HOWA SHAMSHER DIST MOHMAND.

Personnel Number: 00103832

11/11/2020

....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 OKHYBER 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 litedto-day cations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance Registrar 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 **PST** (**BPS-15**) 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

- 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.

- 6- That the appellant also prayed to be treated through the principals of consistency for allowing such relief which was granted in appeal No 1452/2019 titled Maqsad Hayat versus Education Department in Judgment Dated 11.11.2019.
- 7- That where after the appellant waited for the statutory period of ninety days but no reply has been received from the respondents. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

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

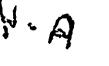
- E- That the Government Servants Revised Leave Rules, 1981 clearly explain that the civil servants who avail the vacations are allowed only one leave in a month whereas, the other civil servants may avail 04 days leave in a calendar months and the same are credited to his account and in this way he 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 aspect 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 under the golden principals of consistency.

APPELLANT RIAZ MOHAMMAD

THROUGH:

UMAR FAROOQ ADVOCATE HIGH COURT





GÖVERNMENT OF KHYBER PAKHTUNKHWA FIHANCE DEPARTMENT REGULATION WINGS

NO. FOSO(SR410, 8-52/2012 Bated Peshawarths: 20-12-2012

From

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REVISION IN THE PATE OF CONVEYANCE ALLOWANCE FOR THE 1. 3.00, E CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL Government 225 1-19

Dec 56.

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		•	_
REVISED RATE (PH)	EXISTING RATE (PM)	548 ON	1.2
RS.1.700/-	₹2.1, ₹00/-	1-1	
Rs.1,540/-	R\$.1,\$0€/-	3. 3-1¢	
Rs.2,720/-	PS-27,007/-	21-11	
Rs.5.000/-	1003.726	31.31	

Conveyance Allewance at the above rates pur month that he admissible to those SPC-11, 15 and 19 others who have not ocen sancocrack alload hat joing -

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(Salubrada Sacod Alumod) छात्रकार प्रभावता है

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NA-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. All 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 PAICHTUNKHWA, 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 (FiVI)
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/-

Conveyance Allowance at the above rates per month shall be admissible to those BPS-17.
 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, 20.1

District Accounts Office CHALANAI Monthly Salary Statement (January-2020)

(135)



Personnel Number 00103832

CNIC: 1710102414388

NTN:

80926290-DISTRICT GOVERNMENT KHYBE

Date of Birth: 25.31.1971

Entry into Govt. Service: 01.01.1998

Length of Service: 22 Years 01 Months 001 Days

Employment (agory: Active Temporary

Designation: PalliARY. SCHOOL TEACHER

DDO Code: M 36013-DEO Primary Education Mohmand

Payroll Section: 601

GPF Section: 001 Interest Applied: Yes Cash Center: 16

GPF Balance:

319,418.00

GPF A/C No: 3894/CSS Vendor Number: -

Pay and Allov ances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil B

Pay Stage: 13

Wage type	Amount		Wage type ◆	' Amount
	33.410.00	1000	House Rent Allowance	2,349.00
Convey Allowance 2005	~~~ = 2,85G-90	1300	Medical Allowance	1,500.00
 Charge Allowance	40.00	1528	Unattractive Area Allow	- 1,500.00
	- 626.00	2199	Adhoc Relief Allow @10%	416.00
 Adhoc Relief All 2016 10%	2,471.00	2224	Adhoc Reliêf All 2017 10%	3,341.00
 Adhoc Relief All 2018 10%	3,341.00	2264	Adhoc Relief All 2019 10%	3,341.00

Deductions - General

. Wage type	Amount		Wage type	K	Amount
3015 GPF Subscription	-2.890.00	3501	Benevolent Fund	7.9	-600,00
3609 Income Tax	-191.00	3990	Emp.Edu. Fund KPK		-125.00
4004 R. Benefits & Death Comp:	-600.00				0.00

Deductions - Loans and Advances

			
Loan Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 2,

2,396.70

Recovered till JAN-2020:

898.00

Exempted: 548.25

Recoverable:

950.45

Gross Pay (Rs.): 55,

55,191.00

Deductions: (Rs.):

-4,406.00

Net Pay: (Rs.):

0 785 00

Puyee Name: RIAZ MOHAMMAD

Account Number: 5437-9

Bank Details: NATIONAL BANK OF PAKISTAN, 231435 SHABQADAR SHABQADAR,

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: VILL: KHAMAI PO KHANMAI TEHSIL DISTT GHALLANAI MOHMAND AGENCY

City: GHALLANAI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

Temp. Address:

Email: riyazmohammad.edu1@gmail.com

man.com

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11,00

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* All amounts are in Pak Rupees

* Errors & omissions excepted

riaz mohad 08-2019 1

Sheet no.



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S#:2		P Sec:	001 Month:Aug	ust 2019	
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Pers #: 00103832 B	uckle:		-DEO PRIMARY		
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Name: RIAZ MOHAMMAD		NTN:	Name		MMAD
NTN:			1¥diiiC	· NAME PIONA	שאויוייו
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PRIMARY SCHOOL TEACHER		3894/CS	•		
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* Old #:		OTG :	#: CNIC	No.171010241	4388
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GPF Interest Applied		Interest A	•	CC042 4.5	,
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15 Active Tempora			MG6	013 -16	
PAYS AND ALLOWANCES:	PAYS AND ALLO	WANCES:		•	
0001-Basic Pay	_			32,080.00	
2247-Adhoc Relief All 201	+ · •			3,208.00	
1000-House Rent Allowan				2,349.00	
2264-Adhoc Relief All 201	9 10%	•		3,208.00	
1300-Medical Allowance				1,500.00	
1505-Charge Allowance				40.00	
1528-Unattractive Area	Allow		_	1,500.00	
2148-15% Adhoc Relief A	11-2013			626.00	
2199-Adhoc Relief Allow	@10%			416.00	
2211-Adhoc Relief All 20	916 10%			2,471.00	*
2224-Adhoc Relief All 2	717 10%			3,208.00	
Gross Pay and Allowan				50,606.00	
Gross Pay and Allowance				50,606.00	
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IT Payable 323.30		41.00	TAX:(3609)	33.00	
-	Deducted	41.00	1,77. (3003)	22.00	
GPF Balance 304,968.00		71,00	Subrc:	2,890.00	
GPF Balance 304,968.00			Subrc:	2,030.00	
3501-Benevolent Fund			Subire.	600 00	
3990-Emp.Edu. Fund KPK	,			600.00	
4004-R. Benefits & Deat	· Comp.		•	125.00	
4004-W. Deliettis a Death	i comp:			1,052.00	
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<i>:</i>			(Th)		
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Total Deductions Total Deductions

4,700.00 4,700.00

The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

7 = 0

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-15) 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 ion 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-15 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 the august K.P.K service tribunal also allowed the restoration of the convence allowance in its judgment dated 11.11.2019 in appeal No 1452/2019 titled Magsad Hayat versus Education Derpartment Copy attached. 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: 20.07.2020

Your Obediently

RIAZ MOHAMMAD

GPS SARA HOWA SHAMSHER DIST MOHMAND





TUNKHWA SERVICE TRIBUNA

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 UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN 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 Figure 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: ON FACTS:

7) / 31/12-5

1- That the appellant is serving in the elementary and esecondar education department as Certified Teacher (BPS-15) quite efficient and up to the entire satisfaction of the superiors.

2- That the Conveyance Allowance is admissible to all the civil servar and to this effect a Notification No. FD (PRC) 1-1/2011 dat 14.07.2011 was issued. That later ion vide revised Notification dat .20.12.2012 whereby the conveyance allowance for employs

Appeal No. 1452/2019 Marbad Hayat vs Gort

122 (1)

11.11.2019

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.

Carolina (1)

File be consigned to the record.

Peshawaga

ANNOUNCED

11.11.2019

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Chairmán .

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKI	IWA SERVICE TIBUNAL, PESHAWAR
	OF 2020
	(APPELLANT)
RIAZ MOHAMMAD	(PLAINTIFF)
	(PETITIONER)
<u>VEI</u>	<u>RSUS</u>
Education Department	(RESPONDENT) (DEFENDANT)
Peshawar to appear, plead, act, comfor me/us as my/our Counsel/Advocate liability for his default and with the Advocate Counsel on my/our cost. I/we	AAR FAROOQ, Advocate, High court, promise, withdraw or refer to arbitration in the above noted matter, without any authority to engage/appoint any other authorize the said Advocate to deposit, half all sums and amounts payable or ove noted matter.
Dated//2020	R

ACCEPTED
UMAR FAROOQ
ADVOCATE