


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6177 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	14/06/2021	<p>The appeal of Mr. Farmanullah presented today by Mr. Said Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/6/2021</u> is a clubbed case with appeal no.12889/2020.</p> <p style="text-align: right;">CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

FARMANULLAH

VS

EDUCATION DEPTT:

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5	Departmental Appeal	D	7.
6	Service Tribunal Judgment	E	8-9.
7	Vakalat nama	10.

Note: Spare copies will be submitted after the admission of the case.

APPELLANT


FARMANULLAH

THROUGH:


SAID RAHMAN

ADVOCATE

SAID RAHMAN
ADVOCATE
bc-19-1229
Service Tribunal K.P.K
Sub Divisional Courts Dargai
Distt: Malakand

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 6177 /2021

FARMANULLAH, PST (B-12)
GPS BELANZAI, Tehsil Dir District Dir (Upper).

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6076

Dated 14/6/2021

..... **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 (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 AND 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 PST (B-12) quite efficiently and up to the entire satisfaction of their superiors.

Filed to-day

MD
Registrar
14/6/2021

- 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 is attached as annexure**A.**
- 3- That appellant was receiving the conveyance allowance 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 some of colleagues of the appellant approached to this august Tribunal in different service appeals which was allowed by this August Tribunal vide its judgment dated 11.11.2019. Copy of the judgment is attached as annexure**D.**
- 5- That Appellant also filed Departmental appeal before the appellate for redressal of his grievances in light of the principal 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.....**E.**

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 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 (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 federation, therefore in light of the said Article the appellant fully entitles for the grant of conveyance allowance during vacations.
- J-** That the petitioner 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

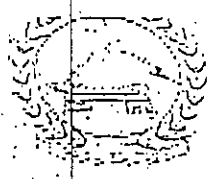
FARMANULLAH

THROUGH:


SAID RAHMAN
ADVOCATE

SAID RAHMAN
ADVOCATE
 Bc-19-1229
 Service Tribunal K.P.K
 Sub Divisional Courts Dargal
 Distt: Malakand

(4) ✓ A 0
A 5



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FDSO(SR-III)-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 Government 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, 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 entrust to revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants, Govt. of Khyber Pakhtunkhwa (working in BPS-1 to BPS-19) w.e.f. from 1st September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-15 to BPS-19 will remain unchanged.

S.NO	BPS	EXISTING RATE (PK)	REVISED RATE (PK)
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, 18 and 19 employees who have not been sanctioned official vehicles.

Yours Faithfully,

(Signature)
(Sahibzada Saqad Ahmad)
Secretary Finance

Encls: NO. FDSO(SR-III)-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 Administrators / Senior Administrative Officers, Khyber Pakhtunkhwa.

(Signature)
MUTIAZ AYUB
Additional Secretary (Finance)

ATTACHED
(Signature)

BETTER COPY PAGE:

GOVERNMENT OF KHYBER PAKHTUN KHWA
FNANCE DEPARTMENT
(REGULATION WING)

NO.FD/SO (SR-II)/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 Pakhtun khwa.
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 and 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 PAKHTUN KHWA, PROVINCIAL GOVERNMENT BPS 1-19.

Dear Sir,

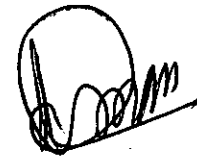
The Government of Khyber Pakhtun Khwa has been pleased to enhance/revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants Govt: of Khyber Pakhtun Khwa (Working in BPS-1 to BPS-15) w.e.f from 1st September, 2012 at the following rates. However, the Conveyance Allowance for Employees from BPS-16 to BPS-19 will remain unchanged.

S.NO	BPS	Existing Rate (PM)	Revised Rate (PM)
1	1-4	RS. 1500/-	RS.1700/-
2	5-10	RS. 1500/-	RS.1840/-
3	11-15	RS.2000/-	RS.2720/-
4	16-19	RS. 5000/-	RS.5000/-

2. Conveyance Allowance at the above rates per month shall be admissible to those BPS-1 to BPS-15 officers who have not been sanctioned official vehicle.

Your Faithfully
(Sahib Zada Saeed Ahmad)
Secretary Finance

ATTESTED




Endst No. FD/SO(SR-II) /8-52/2012

Dated Peshawar the 20th December, 2012

Dist. Govt. KP-Provincial
District Accounts Office Dir Upper
Monthly Salary Statement (September-2020)

(5) Ammoyun B



Personal Information of Mr FARMAN ULLAH d/w/s of SHER ZAMIN

Personnel Number: 00907571 CNIC: 1570121705751 NTN:
Date of Birth: 05.03.1994 Entry into Govt. Service: 01.03.2019 Length of Service: 01 Years 07 Months 001 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL TEACHER 80001902-DISTRICT GOVERNMENT KHYBE

DDO Code: DP6015-DY DISTT OFFICER (M) PRY EDU DIR

Payroll Section: 001 GPF Section: 001 Cash Center: 00

GPF A/C No: Interest Applied: Yes GPF Balance: 38,215.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 12 Pay Stage: 0

Wage type		Amount	Wage type		Amount
0001	Basic Pay	13,320.00	1000	House Rent Allowance	1,961.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1923	UAA-OTHER 20%(1-15)	1,000.00	2211	Adhoc Relief All 2016 10%	1,114.00
2224	Adhoc Relief All 2017 10%	1,332.00	2247	Adhoc Relief All 2018 10%	1,332.00
2264	Adhoc Relief All 2019 10%	1,332.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3012	GPF Subscription	-2,220.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till SEP-2020: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 25,747.00 Deductions: (Rs.): -2,220.00 Net Pay: (Rs.): 23,527.00

Payee Name: FARMAN ULLAH

Account Number: 4159173781

Bank Details: NATIONAL BANK OF PAKISTAN, 231323 WARI, DIR UPPER WARI, DIR UPPER., DIR UPPER

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: SHAWO TEHSIL & DISTRICT

Domicile: -

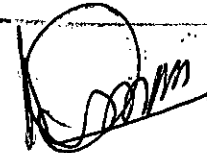
Housing Status: No Official

Temp. Address:

City:

Email: farman7466@gmail.com

ATTESTED



(b) Annexure 'C'

Dir Upper

S#: 1

P Sec:001 Month:February 2021
DP6015 -DY DISTT OFFICER (M) PRY E
GOVT PIMARY SCHOOLS (M) U

Pers #: 00907571 Buckle:
Name: FARMAN, ULLAH
PRIMARY SCHOOL TEACHER
CNIC No.1570121705751
GPF Interest Applied
12 Active Temporary

NTN:
GPF #:
Old #:

DP6015 -00

PAYS AND ALLOWANCES:

0001-Basic Pay	14,280.00
1000-House Rent Allowance	1,961.00
1300-Medical Allowance	1,500.00
1923-UAA-OTHER 20%(1-15)	1,000.00
2211-Adhoc Relief All 2016 10%	1,114.00
2224-Adhoc Relief All 2017 10%	1,428.00
2247-Adhoc Relief All 2018 10%	1,428.00
2264-Adhoc Relief All 2019 10%	1,428.00

Gross Pay and Allowances 24,139.00

DEDUCTIONS:

GPF Balance	49,315.00	Subrc:	2,220.00
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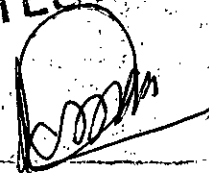
Total Deductions 2,220.00

21,919.00

D.O.B
05.03.1994
02 Years 00 Months 001 Days

LFP Quota:
NATIONAL BANK OF PAKWARI, DIR UPPER.
4159173781

ATTESTED



7
Annexure a D D

To,

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

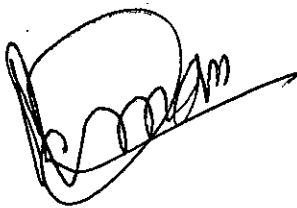
Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUNGED ACTION OF THE CONCERNED AUTHORITY BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE DURING WINTER AND SUMMER VACATIONS.

Respected Sir,

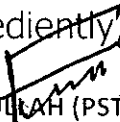
With due respect it is stated that I am the employee of your good self-Department and is serving as PST (B-12) quite efficiency and up to the entire satisfaction of the superiors. It is stated for kind information that Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1- 1-2011 dated 14.07.2011 was issued. Later on vide revised Notification dated 20.12.2012 where 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 am 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: 01.03.2021

Attested


Your obediently,


FARMANULLAH (PST)
GPS BELANZAI (DIR)
Tehsil DIR, District Dir (Upper)

(8) 10 8 2



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1452 / 2019

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

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 (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 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.

Filed to-day
Registrar
14/10/19

R/SHEWETH:

ATTENTION FACTS:

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

ATTES TED

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

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
14/10/19

(9)

Appeal No. 1452/2019
Masood Hayat vs Govt



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.

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

M

ATTESTED

File be consigned to the record.

ANNOUNCED

11.11.2019

Chairman

VAKALATNAMA**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

_____ OF 2021

FARMANULLAH _____

(APPELLANT)
(PLAINTIFF)
(PETITIONER)**VERSUS**

Education Department _____

(RESPONDENT)
(DEFENDANT)

I/We FARMANULLAH _____

Do hereby appoint and constitute **SAID RAHMAN Advocate**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 14 / 06 / 2021


 CLIENT
ACCEPTED

 SAID RAHMAN
 ADVOCATE

OFFICE:

Dargai Bar, District Malakand
Mobile No.0345-9704705
SAID RAHMAN
ADVOCATE
 bc-19-1229
 Service Tribunal K.P.K
 Sub Divisional Courts Dargai
 Distt: Malakand