FORM OF ORDER SHEET

Form- A

Case No 6/27 /2021 No. Date of order proceedings Order or other proceedings with signature of judge 1 2 3 1- 14/06/2021 The appeal of Mr. Farmanullah presented today by Mr. Said Rehm Advocate may be entered in the Institution Register and put up to t Worthy Chairman for proper order please.	, ⁻		Court c	of
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. ____/2021

FARMANULLAH

VS

EDUCATION DEPTT:

	INDEX	<u></u>	
S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal		1- 3.
3	Notification	Α	4.
4	Pay Slips	B & C	5-6.
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.

THROUGH:

APPELLANT

SAID Μ́ΔΝ

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. 6127 /2021

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

Kayber Pakhtukhwa Rervice Tribunal

Diary No. 6076 Dated 14/6/2021

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 IMPUGNED AGAINST THE ACTION OF THE RESPONDENTS BY ILLE<u>GALL</u>Y 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 APPELANT 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.

<u>R/SHEWETH:</u> 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.

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- 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**.

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 (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.

APPELAN FARMANULLAH THROUGH: SAID R ADVOCATE

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

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GOVERNMENT OF KHYBER PAKHYUNKHWA
TNANCE DEPARTMENT
(REGULATION WING)
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GOVERNMENT OF KHYBER PAKHTUN KHWA

ÉNANCË DËPARTMENT

(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.

Τo:

- 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.

BPS	Existing Rate (PM)	Revised Rate (PM)
1-4	RS. 1500/-	RS.1700/-
5-10	RS. 1500/-	RS.1840/-
11-15	RS.2000/-	RS.2720/-
16-19		R\$.5000/-
	1-4 5-10 11-15	1-4 RS. 1500/- 5-10 RS. 1500/- 11-15 RS.2000/-

2. Conveyance Allowance at the above rates per month shall be admissible to the TPFE, STE Dofficers who have not been sanctioned official vehicle.

Your Faithfully

(Sahib Zada Saeed Ahmad)

Secretary Finance

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

Dated Peshawar the 20th December, 2012

Personal Information of Mr FARMAN ULLAH d/w/s of SHER ZAMINPersonnel Number: 00907571CNIC: 1570121705751NTN:Date of Birth: 05.03.1994Entry into Govt. Service: 01.03.2019Length of Service: 01 Years 07 Months 001 DEmployment Category: Active TemporaryDesignation: PRIMARY SCHOOL TEACHER80001902-DISTRICT GOVERNMENT KHYBEDDO Code: DP6015-DY DISTT OFFICER (M) PRY EDU DIRPayroll Section: 001GPF Section: 001Cash Center: 00GPF A/C No:Interest Applied: YesGPF Balance:38,215.00Vendor Number: -Pay scale: BPS For - 2017Pay Scale Type: Civil BPS: 12Pay Stage: 0Pay aud Aliowances:Pay scale: BPS For - 2017Pay Scale Type: Civil BPS: 12Pay Stage: 01210Convey Allowance 20052,856.001300Medical Allowance1,961.001223UAA-OTHER 20%(1-15)1,000.002211Adhoc Relief All 2016 10%1,114.002224Adhoc Relief All 2019 10%1,332.002247Adhoc Relief All 2018 10%1,332.00		Dist. Govt. District Accour lonthly Salary Sta		Upper	-	Anne	eyen	
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S#: 1		Sec:001 Month:February 2021 P6015 -DY DISTT OFFICER (M) PRY E	•
Pers #: 00907571 Buckle:		GOVT PIMARY SCHOOLS (M) U	
Name: FARMAN, ULLAH	Ň	TN:	
PRIMARY SCHOOL TEACHER	G	PF #:	
CNIC No.1570121705751	· · · O.	ld #:	
GPF Interest Applied			
12 Active Temporary		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	
	ć		
Gross Pay and Allowances		24,139.00	

DEDUCTIONS:

GPF Balance 49,315.00

Total Deductions

D.O.B 05.03.1994 02 Years 00 Months 001 Days 2,220.00

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2:220:00

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

Subre:

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Annepuse a DO

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,

Ťο,

With due respect it is stated that I am the employee of your good self-Department and is serving as PST (B-12) guite 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



Your obedien FARMANULAH (PST) GPS BELANZAI (DIR) Tehsil DIR, District Dir (Upper)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRESHIVAL

 $\left(0\right)$

PESHAWAR

APPEAL NO. 145 21/ 2019

Mr. Maqsad Hayat, SCT (BPS-16), GHS Masho Gagar, Reshawar.....

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, Knyber Pakhtunkhwa- Peshawar
- 5- The Director (E&S) Department, Khyber Pakhiunkhwa, Peshawar

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 WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

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

ATTESTONFACTS:

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

A21 has 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

Appeal No. 1452/2019 Markad Hayat VS Govt

11.11.2019

Certified the he ture copy

Khylen Pakityakhwa

rectribunal.

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. 3152-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.

Chairman

ATTEST File be consigned to the record.

ANNOUNCED .

11.11.2010

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

ACCEPTED SAID RAHMAN **ADVOCATE**

SAID RAHMAN ADVOCATE bc-19-1229 Service Tribunal K.P.K Sub Divisional Courts Dargan Dist: Majakand

OFFICE: Dargai Bar, District Malakand Mobile No.0345-9704705