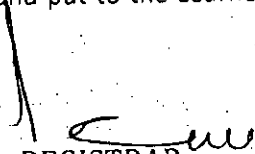

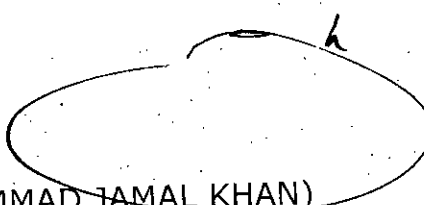


Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 15599 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/12/2020	<p>The appeal presented today by Mr. Fazal Shah 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>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/03/21</u></p> <p style="text-align: right;"> MEMBER(J)</p>
	02.03.2021	<p>Due to general strike on the call of Khyber Pakhtunkhwa Bar Counsel, learned counsel for appellant is not available today, therefore, the appeal is adjourned to 27.07.2021 on which date file to come up for preliminary arguments before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. _____ /2020

.....Appellant.....
Fazal Khalid

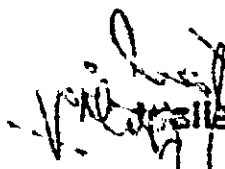

V E R S U S

.....Respondents.....
Director and Others

I N D E X

S. No	Description of Documents	Annexure	Pages
1.	Service appeal		1-2
2.	Copy of pay slips	A	3-4
3.	Copy of departmental appeal	B	2
4.	Copies of Judgments	C	6-9
5.	Wakalat Nama		10

Dated: 07-12-2020


 Appellant
 Through

 Advocate Supreme Court
 Fazal Shah Mohammad

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell 1
 0301 8804841
 Email:- fazalshahmohmand@gmail.com

Note: Spare copies will be provided after the admission of Service Appeal.


 Advocate

-1-

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 15594/2020

Diary No. 16272

Fazal Khaliq, Theology Teacher (BPS-15), Govt. Middle School,
Khurkashandeh, Chitral lower.....**Appellant**

Dated 7/12/2020

V E R S U S

1. Director Elementary and Secondary Education, KPK Peshawar.
2. District Education Officer (Male) Chitral lower.
3. Secretary, Elementary and Secondary Education, KPK Peshawar.
4. Govt. of Khyber Pukhtunkhwa through Secretary Finance Department, Peshawar.
5. Accountant General, Khyber Pukhtunkhwa Peshawar.

.....**Respondents**

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ACTION OF RESPONDENTS OF
ILLEGALLY DEDUCTING CONVEYANCE ALLOWANCE FROM
THE APPELLANT DURING SUMMER AND WINTER
VACATIONS AND PAYMENT OF DEDUCTED AMOUNT MADE
TO THE APPELLANT MADE FROM HIM IN THIS RESPECT,
FOR WHICH DEPARTMENTAL APPEAL OF THE APPELLANT
HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE
OF THE STATUTORY PERIOD OF NINETY DAYS.**

PRAYER:-

On acceptance of this appeal the respondents may kindly be directed not to deduct from the appellant the Conveyance allowance during the summer and winter vacations and pay the appellant the illegally deducted amount in this respect.

Respectfully Submitted:-

Filed to-day

Registrar

7/12/20

1. That the appellant is serving as Theology Teacher (BPS-15), Govt. Middle School, Khurkashandeh Chitral lower in the respondent department and since appointment he has performed his duties with honesty and full devotion with spotless service career.
2. That the department in which the appellant is serving is vacation department and the conveyance allowance is deducted from the appellant during summer and winter vacations in violation of **Rule 82 (b)** of the Fundamental Rules 1922, according to which **vacation counts as duty.** (Copy of Pay Slip is enclosed as Annexure A).

3. That the appellant approached respondents for directing respondents to pay him the conveyance allowance during summer and winter vacations with further directions to the respondents to pay the appellant the already illegally deducted amount in this regard, vide departmental appeal which has not been responded so far despite the lapse of the statutory period of ninety days. **(Copy of departmental appeal is enclosed as Annexure B).**
4. That this action of the respondents of not paying the appellant the conveyance allowance during the summer and winter vacations and not paying the appellant the illegally deducted amount in this respect, is against the law, facts and principles of justice on grounds inter alia as follows:-


GROUND S:-

- A. That the omissions and commissions of the respondents are illegal and void ab-initio.
- B. That **Rule 82 (b)** of the Fundamental Rules 1922, is very much clear on the point, according to which **vacation counts as duty**, hence deduction of conveyance allowance during the Summer and Winter vacations is illegal and against the **Rule 82 (b)** of the Fundamental Rules 1922.
- C. That even this issue was agitated before the Sindh Service Tribunal, Federal Service Tribunal and even before this honorable Tribunal which appeals were accepted and even that judgments have been implemented. **(Copies of Judgments are enclosed as Annexure C).**
- D. That the illegal deduction of the conveyance allowances during vacations cause monetary loss to the appellant and he is subjected to monetary loss illegally.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:07-12-2020


Appellant
(Fazal Khalid)

Through,

Fazal Shah Mohmand
Advocate Supreme Court

Dist. Govt. KP-Provincial
District Accounts Office Chitral
Monthly Salary Statement (August-2020)

"A" -3-



Personal Information of Mr FAZAL KHALIQA d/w/s of MUHAMMAD MUSHARAFKHAN

Personnel Number: 00791972 CNIC: 1520188948947 NTN:
Date of Birth: 15.03.1986 Entry into Govt. Service: 10.03.2016 Length of Service: 04 Years 05 Months 023 Days

Employment Category: Vocational Temporary

Designation: THEOLOGY TEACHER 80001250-DISTRICT GOVERNMENT KHYBE

DDO Code: CL6038-District Officer Male Chitral Chitral

Payroll Section: 001 GPF Section: 001 Cash Center:
GPF A/C No: Interest Applied: Yes GPF Balance: 165,133.00

Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 15 Pay Stage: 4

Wage type		Amount	Wage type		Amount
0001	Basic Pay	21,440.00	1000	House Rent Allowance	2,349.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1917	UAA-CHITRAL 40%(1-15)	1,700.00	2148	15% Adhoc Relief All-2013	425.00
2199	Adhoc Relief Allow @10%	275.00	2211	Adhoc Relief All 2016 10%	1,463.00
2224	Adhoc Relief All 2017 10%	2,144.00	2247	Adhoc Relief All 2018 10%	2,144.00
2264	Adhoc Relief All 2019 10%	2,144.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-2,890.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp.	-600.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

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

Gross Pay (Rs.): 38,440.00 Deductions: (Rs.): -4,215.00 Net Pay: (Rs.): 34,225.00

Payee Name: FAZAL KHALIQA

Account Number: 0010036582430018

Bank Details: ALLIED BANK LIMITED, 250768 CHITRAL CHITRAL, CHITRAL

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: 17200

Domicile: -

Housing Status: No Official

Temp. Address:

City:

Email: alfazal1986@gmail.com

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Dist. Govt. KP-Provincial
District Accounts Office Chitral
Monthly Salary Statement (July-2020)

-4-



Personal Information of Mr FAZAL KHALIQE d/w/s of MUHAMMAD MUSHARAFKHAN

Personnel Number: 00791972 CNIC: 1520188948947 NTN:
 Date of Birth: 15.03.1986 Entry into Govt. Service: 10.03.2016 Length of Service: 04 Years 04 Months 023 Days

Employment Category: Vocational Temporary

Designation: THEOLOGY TEACHER 80001250-DISTRICT GOVERNMENT KHYBE

DDO Code: CL6038-District Officer Male Chitral Chitral

Payroll Section: 001 GPF Section: 001 Cash Center:
 GPF A/C No: Interest Applied: Yes GPF Balance: 162,243.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 15 Pay Stage: 4

Wage type		Amount	Wage type		Amount
0001	Basic Pay	21,440.00	1000	House Rent Allowance	2,349.00
1300	Medical Allowance	1,500.00	1917	UAA-CHITRAL 40%(1-15)	1,700.00
2148	15% Adhoc Relief All-2013	425.00	2199	Adhoc Relief Allow @10%	275.00
2211	Adhoc Relief All 2016 10%	1,463.00	2224	Adhoc Relief All 2017 10%	2,144.00
2247	Adhoc Relief All 2018 10%	2,144.00	2264	Adhoc Relief All 2019 10%	2,144.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-2,890.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp:	-600.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

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

Gross Pay (Rs.): 35,584.00 Deductions: (Rs.): -4,215.00 Net Pay: (Rs.): 31,369.00

Payee Name: FAZAL KHALIQE
 Account Number: 0010036582430018
 Bank Details: ALLIED BANK LIMITED, 250768 CHITRAL CHITRAL; CHITRAL

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address:

City: 17200 Domicile: - Housing Status: No Official
 Temp. Address:
 City: Email: alfazal1986@gmail.com

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"B" -5-

**BEFORE THE DIRECTOR ELEMENTARY AND
SECONDARY EDUCATION KPK PESHAWAR.**

**Subject:- Departmental Appeal for the payment
of Conveyance Allowance during Summer and
Winter vacations and declaring the deduction of
the same as illegal and unlawful**

Respectfully Submitted:-

1. That the appellant is serving as Theology Teacher (BPS-15), Govt. Middle School, Khurkashandeh, Chitral lower, and the department in which he is serving is vacation department wherein the conveyance allowance cannot be deducted as per law and rules. Even the deduction of conveyance has been declared illegal by the Service Tribunal in many appeals. The deduction of conveyance allowance as such during summer and winter vacations is illegal and the appellant is entitled to be paid the deducted amount in this respect.

It is therefore prayed that on acceptance of this appeal, Conveyance Allowance during summer and winter vacations may not be deducted from the appellant and pay back the appellant the deducted amount in this respect.

Dated:-13-08-2020


Fazal Khaliq

Theology Teacher (BPS-15), Govt. Middle School, khurkashandeh, Chitral Lower.

**TESTED TO BE
TRUE COPY**

-6- "C"



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1452 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1500

Dated 24/10/2019

Mr. Maqsd 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
24/10/19

**R/SHEWETH:
ON 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.
- 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

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To Be True Copy

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TRUE COPY

Re-Examined to-day
and filed.

Appeal No. 1452/2019
Marbad 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.

File be consigned to the record.

Date of Presentation of the Appeal 11.11.2019
Chairman

Number of Words 800

Copying Fee 10 -

Urgent 4 -

Total 14 -

11.11.2019

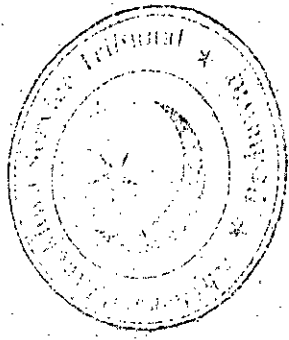
[Signature]
Member
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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To Be True Copy



BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 3823/2020

Shad Ali, Primary School Teacher, Govt. Primary School Ahmad Gul Banda District Mardan.....**Appellant**

Khyber Pakhtunkhwa Service Tribunal

Diary No. 27

Dated 24/4/20

V E R S U S

1. Director Elementary and Secondary Education, KPK Peshawar.
 2. District Education Officer (Male) Mardan.
 3. Secretary, Elementary and Secondary Education, KPK Peshawar.
 4. Govt. of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar.
 5. Accountant General, Khyber Pakhtunkhwa Peshawar.
-**Respondents**

Filed to-day

[Signature]
Registrar
24/4/20

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ACTION OF RESPONDENTS OF ILLEGALLY DEDUCTING CONVEYANCE ALLOWANCE FROM THE APPELLANT DURING SUMMAR AND WINTER VACATIONS AND PAYMENT OF DEDUCTED AMOUNT MADE TO THE APPELLANT MADE FROM HIM IN THIS RESPECT, FOR WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:-

Resubmitted to-day
and filed.

[Signature]
Registrar
27/4/20

On acceptance of this appeal the respondents may kindly be directed not to deduct from the appellant the Conveyance allowance during the summer and winter vacations and pay the appellant the illegally deducted amount in this respect.

Respectfully Submitted:-

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To Be True Copy

1. That the appellant is serving in the respondent department and since then he performed his duties with honesty and full devotion with spotless service career.

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ATTESTED

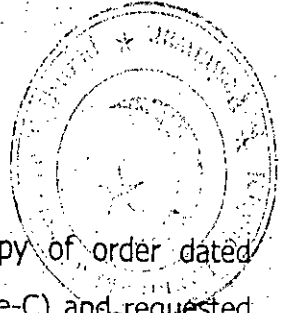
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

That the department in which the appellant is serving is vacation department and the conveyance allowance is deducted from the appellant during summer and Winter vacations in violation of **Rule 82 (b)** of the Fundamental Rules 1922, according to which vacation counts as duty. (Copy of Pay Slip is enclosed as

03.06.2020

Counsel for the appellant present.

-9-



1. At the outset learned counsel referred to copy of order dated 11.11.2019 passed in Appeal No. 1452/2019 (annexure-C) and requested for disposal of instant appeal also in terms of the order.

2. It shall be useful for the purpose to reproduce hereunder the contents of referred order dated 11.11.2019:-

"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."

3. Having identical features instant appeal is disposed of accordingly. File be consigned to the record.

Chairman

ANNOUNCED

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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To Be True Copy

-10-

VAKALATNAMA

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. _____/2020

Fazal KhaliqAppellant

VERSUS


Director and others Respondents

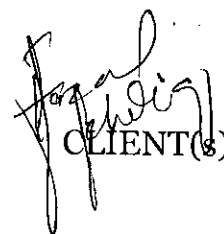
I/We, the undersigned, do hereby appoint and constitute **Fazal Shah Mohmand** Advocate Supreme Court & **Rabia Muzaffar** Advocate Peshawar. To act, appear and plead in the above-mentioned matter and to withdraw or compromise the said matter or submit to arbitration any differences or dispute that shall arise touching or in any manner relating to the said matter and to receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said matter.

1. To draft and sign files at necessary pleadings, applications, objections, affidavits or other documents as shall be deemed necessary and advisable for the prosecution of the said matter at all its stages.
2. To employ any other Legal Practitioner, authorizing him to exercise the power as conferred on the undersigned Advocate, wherever he may think fit to do so.


AND I/We hereby agree to ratify whatever the Advocate or his substitute shall do in the above matter. I/We also hereby agree not to hold the Advocate or his substitute responsible for the result of the said matter in consequence of his absence from the Court when the said matter is called up for hearing. I/We further hereby agree that in the event for the whole or any part of the fee to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the above matter. Received by me on 05-12-2020.

ACCEPTED BY:


FAZAL SHAH MOHMAND
Advocate,
Supreme Court of Pakistan.


CLIENT(S)

& ACCEPTED BY:


RABIA MUZAFFAR
Advocate, Peshawar.


ZIA UD DIN
Advocate, Peshawar.

OFFICE:-Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841.
(Clerk) Cell# 03339214136
Email: - fazalshahmohmand@gmail.com.