FORM OF ORDER SHEET

Form- A

	Court o	if
	Case No	14782 12020 20
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/11/2020	The appeal presented today by Mr. Shahid Hussain Advocate may be entered in the Institution Register and put to the Learned Member
		for proper order please.
2-		This case is entrusted to S. Bench for preliminary hearing to be put
		up there on 2. 3. 2021
-	۰۰ بود ۱۹۹۰ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹ - ۲۹۹۹	
		MEMBER(J)
02.0	3.2021	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.
- :		h
		(MUHAMMAD JAM <del>AL KHAN)</del> MEMBER (JUDICIAL)

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Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Service Appeal No \_\_\_\_\_ /2020

# IJAZ AHMAD VS EDUCATION DEPTT:

S.N	Descriptions of Documents	Annexure	Page
1.	Memo of appeal	, unicidate	Page , 1-3
2.	Copy of Notification dated	A	4
3.	Copy of the salary slips of working/Serving month and vacation (deduction period)	B&C	5-6
4.	Copy of Departmental Appeal	D	7
5.	Service Tribunal Judgment	E	8-9
6.	Wakalat Nama		10
		. ' •**E	

## INDEX

# APPELLANT

THROUGH.

SHAHID HUSSAIN ADVOCATE HIGH COURT CELL NO 03003959446

Note: Sir, Spare Copies will be submitted After submission of the case.

d. That there is cleared difference between leave and vacation as leave is applied by the civil servant in the light Government servant revised leave nules 1989 while the vacation are always announced by the government, therefore under the law and rules the appellant fully entitled for the grant of conveyance during vacation period. ρſ

- e. That the Government Servant revised leave rules 1989 clearly explained that the civil servant who avail the vacation are allowed only one leave in a month where is the other civil servant may avail 4 days leave in colander months and the same are credit to his account in this way he may to earned leave with fully pay, where is government servants to avail vacations such is appellant is allowed one day leave in a month and 12 days in a year and question of deduction of conveyance allowance. The respondent illegally and without any authority started the recovery and deduction of conveyance allowance from the appellant.
- That is the act of the respondent is illegal, unconstitutional, without any legal authority and not only discriminatory but the result of Malafiede on the part of respondents.
- g. That appellant has vested right of equal treatment before law and the act of the respondents to deprived the appellant from the conveyance allowence is unconstitutional and clear violation of fundamental right.
- h. That according to government servant revised leave rules 1989 vacations of holly days are not leave of any kind, therefore the deduction of conveyance allowance in vacation is against the law and rules.
- i. That according 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 individual including person in the service of federation therefore in the light the said article the appellant is fully entitled for the grant of fully conveyance allowance during vacations.
  - j. That the appellant seeks permission of this honorable to raise any other grounds at the time arguments, sec

It is therefore, most humbly prayed the appeal of the appellant may be accepted as prayed for.

APPELLAN :HOUGH: RHAND HUSBAIN ADVOCATE

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Service Appeal No \_\_\_\_\_ /2020

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## APPELLANT

THROUGH:

SHÁHID HƯSSAIN ADVOCATE HIGH COURT CELL NO 03003959446

Sir, Spare Copies will be submitted After submission of the case.

Note:

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Service Appeal No 14782 /2020

Mr.IJAZ AHMAD, Senior CT(BPS-16) GHS DILDAR GARHI , CHARSADDA

Khyber Pakhtukhwa Service Tribunal Diary NSZOL

....RESPONDENTS

..... 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.

APPEAL UNDER SECTION -4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT.1974 AGAINST THE INACTION OF THE RESPONDENTS BY ILLEGAL AND UNLAWFUL DEDUCTING THE CONVENCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATION AND AGAINST NO ACTION TAKEN ON THE DEPARTMENT APPEAL <u>OF APPELLANT</u> WITHIN THE STATUORY 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 the winter & **Registran**summer vacations and make the payment of all outstanding amount of  $23 [11]^{20}$  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.

## **RESPECTFULLY SHEWETH:**

- That the appellant is serving in the Elementary and Secondary Education department as SCT (BPS-16) quite efficiency and up to the entire satisfaction of the superiors.
- That the conveyance Allowance is admissible to all the Civil Servants and to this effect a Notification No. FD (PRC) 1-1/2011 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 Notification dated 20/12/2012 are attached as annexure......A
That appellant was receiving the conveyance allowance as admissible under the law and rules but the respondents without any valid and justifiable reason stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period (Copy of the salary slips of working/ serving month and Vacation Period are Annex B&C)

- That some of the colleagues of the appellant approached to this August Tribunal in different service appeal which was allowed by this Tribunal vide S.A No. 1452/2019 judgments dated 11/11/2019 and many others cases.(copy judgments dated 11/11/2019 attached as annexure ....E
- 6. That where after the appellant waited for the statutory period of ninety days but no reply has been received from the respondents so far. That feeling aggrieved and having no other remedy file the instant service appeal on the following grounds:-

#### GROUNDS:-

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- a. That the action of the respondents regarding deduction of the conveyance allowance for vacations period/ months is illegal against the law, facts and 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 respondent is without any legal authority discriminatory and clear violation of fundamental rights duly conferred by the Constitution and is liable to declared is null and void.

- d. That there is cleared difference between leave and vacation as leave is applied by the civil servant in the light Government servant revised leave rules 1989 while the vacation are always announced by the government, therefore under the law and rules the appellant fully entitled for the grant of conveyance during vacation period.
- e. That the Government Servant revised leave rules 1989 clearly explained that the civil servant who avail the vacation are allowed only one leave in a month where is the other civil servant may avail 4 days leave in colander months and the same are credit to his account in this way he may to earned leave with fully pay, where is government servants to avail vacations such is appellant is allowed one day leave in a month and 12 days in a year and earned leave for 12 days in a year for credit to his account and there is no question of deduction of conveyance allowance . The respondent illegally and without any authority started the recovery and deduction of conveyance allowance from the appellant.
- f. That is the act of the respondent is illegal, unconstitutional, without any legal authority and not only discriminatory but the result of Malafiede on the part of respondents.
- g. That appellant has vested right of equal treatment before law and the act of the respondents to deprived the appellant from the conveyance allowance is unconstitutional and clear violation of fundamental right.
- h. That according to government servant revised leave rules 1989 vacations or holly days are not leave of any kind, therefore the deduction of conveyance allowance in vacation is against the law and rules.
- i. That according 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 individual including person in the service of federation therefore in the light the said article the appellant is fully entitled for the grant of fully conveyance allowance during vacations.
- j. That the appellant seeks permission of this honorable to raise any other grounds at the time arguments.

It is therefore, most humbly prayed the appeal of the appellant may be accepted as prayed for.

APPELLANT

THROUGH: SHÁHÍD HUSSAIN ADVOCATE



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## GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO. FD/SO/SR-IIN8-52/2012 Dated Peshawar the: 20-12-2012

From

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The Societary to Govi, of Khyler Pakhtunkhwa, Finance Dependent, Penhawar.

To:

All Administrative Scottaries to Govi. of Khyber Pakittunkhwa 2

- The Senior Momber, Boast of Revenue, Knyber Pakhtubilinaa
- The Secretary to Governor Knyber Pakinunkawa
- The Secretary to Charl Market, Knyber Pakintandawa,
- The Secretary, Provincial Astacolo y Knyber Pakhturkhwa
- All Heads of Allaches Departure in Knyher Pakhtuekhua
- At District Coonfination Officences Kingber Pakhtunkmin
- Ab Political Agents / District & Senglons Judges in Kityber Partituri/dista
- ÷, The Registrar Pershawar High Coord Poshawar
- The Chestman, Public Socion Commission, Klyber Pakhunkowa 10

  - The Chairman, Services Tribunal Kitybar Pakhturtawa

Subject

#### REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL GOVERNMENT BPS 1-19

Dear Si

The Government of Khyber Palihturikhwa has been pleased to enhance / revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants, Gove of Knyber Pakhunkhwa (working in BPS-1 to BPS-15) w.e.f from 1° September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-16 to BPS-19 will remain. unchanged.

SNO BPS	EXISTING RATE (PM)	REVISED RATE (PM)
1. 1-4	Rs.1,500/-	Rs.1.700/-
2. 3-10	Rs.1,500/-	Rs.1.840/-
3. 11-15	<u>Rs.2,000/-</u>	Rs.2,720/-
4. 16-19	1	R\$.5,000/-

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

Yours Fashfully

(Sahibzada Saced Ahma Secretary Finance

Endso: NO. FD:SO(SR-11)/\$-5242012.

Dated Peslaw at the 20<sup>m</sup> Dynamiata, 2042

A Copy is forwarded for information to the:-

- Accountant General Knyber Pakitum/Unic, Petitever
- Secretaries to Government of Punjob, for an & Babelinstan, Pinerce Deportment, All Parenaments (Semi) Autonomous Secures in Miscore Pakhtur khara

INTIAZ AYUB;

Administ Secondary (Ran )

#### **Dist. Govt. NWFP-Provincial District Accounts Office Charsadda** Monthly Salary Statement (August-2020)



Personnel Number: 00147105 Date of Birth: 06.09.1965

CNIC: 1710244972271 Entry into Govt. Service: 13.10.1988

Length of Service: 31 Years 10 Months 020 Days

**Employment Category: Active Temporary** Designation: CERTIFICATED TEACHER

80478433-DISTRICT GOVERNMENT KHYBE

NTN:

DDO Code: CA6222-GOVT. HIGH SCHOOL Dildar Garhi Payroll Section: 001 GPF Section: 001 Cash Center: 11 GPF A/C No: 1241 Interest Applied: Yes **GPF Balance:** Vendor Number: 30391840 - EJAZ AHMAD SENIOR CT BPS 16 CHARSADDA Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 16

177,493.00

Pay Stage: 28

	Wage type	Amount	Wage type	Amount
0001	Basic Pay	61,470.00	1000 House Rent Allowance	2,727.00
1210	Convey Allowance 2005	5,000.00	1947 Medical Allow 15% (16-22)	1,500.00
2148	15% Adhoc Relief All-2013	1,265.00	2199 Adhoc Relief Allow @10%	944.00
2211	Adhoc Relief All 2016 10%	4,788.00	2224 Adhoc Relief All 2017 10%	6,147.00
2247	Adhoc Relief All 2018 10%	6,147.00	2264 Adhoc Relief All 2019 10%	6,147.00

#### **Deductions - General**

	Wage type	Amount		Wage type	Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-1,731.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-650.00			0.00

#### **Deductions - Loans and Advances**

Loan	Descr	ription	Principal amount	Deduction	Balance
6505	GPF Loan Principal Insta		315,000.00	-15,750.00	223,500.00
<b>Deductio</b> Payable:	ns - Income Tax 27,680.95 Recover	ed till August-2020:	3,462.00 Exempted	l: 6919.25 Recoveral	ble: 17,299.70
Gross Pa	y (Rs.): 96,135.00	Deductions: (Rs.):	-22,421.00	Net Pay: (Rs.): 73,7	714.00
Account	nme: EJAZ AHMAD Number: C 5543-1 tails: NATIONAL BANK C		FEHSIL BAZAR, Charse	adda. TEHSIL BAZAR, C	harsadda., Charsadd
eaves:	Opening Balance:	Availed:	Earned:	' Balance:	
Permaner	nt Address: SDEO (M) CH	ARSADDA			
City: CH. Femp. Ac City:	ARSADDA ddress:	Domicile: NW KE	Weer Pakhtunkhwa	Housing Status:	No Official

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



### Personal Information of Mr EJAZ AHMAD d/w/s of NISAR AHMED

Personnel Number: 00147105 Date of Birth: 06.09.1965

CNIC: 1710244972271 Entry into Govt. Service: 13.10.1988

Length of Service: 30 Years 09 Months 020 Days

NTN:

Employment Category: Ac	tive Temporary			
Designation: SENIOR CER	80478433-DISTRICT GOVERNMENT KHYBE			
DDO Code: CA6222-GOV	Г. HIGH SCHOOL Dildar Garhi		,	
Payroll Section: 001	GPF Section: 001	Cash Center: 11		
GPF A/C No: 1241	Interest Applied: Yes	GPF Balance:		324,837.00
Vendor Number: 30391840	- EJAZ AHMAD SENIOR CT I	3PS 16 CHARSADDA		
Pay and Allowances:	Pay scale: BPS For - 2017		,BPS: 16	Pay Stage: 27
<b>`</b>		· · ·		

Wage type Amount			Wage type	Amount	
0001	Basic Pay	59,950.00	1000	House Rent Allowance	2.727.00
1947	Medical Allow 15% (16-22)	1,876.00	2148	15% Adhoc Relief All-2013	1,265.00
2199	Adhoc Relief Allow @10%	944.00	2211	Adhoc Relief All 2016 10%	4,788.00
2224	Adhoc Relief All 2017 10%	5,995.00	2247	Adhoc Relief All 2018 10%	5,995.00
2264	Adhoc Relief All 2019 10%	5,995.00		····	0.00

#### **Deductions - General**

	Wage type	Amount		Wage type	Amount
3016	GPF Subscription - Rs3340	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-1,187.00	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
Deductions -	Income Tax			

Payable: 23,720.95 Recovered till JUL-2019: 1,187.00 Exempted: 9487.40 Recoverable: 13,046.55

Gross Pay (Rs.): 89,535.00 Deductions: (Rs.): -6,566.00 Net Pay: (Rs.): 82,969.00

Payee Name: EJAZ AHMAD

Account Number: C 5543-1

Bank Details: NATIONAL BANK OF PAKISTAN, 230410 TEHSIL BAZAR, Charsadda. TEHSIL BAZAR, Charsadda., Charsadda

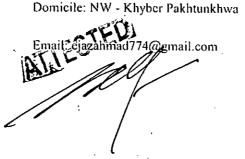
Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: SDEO (M) CHARSADDA

 City: CHARSADDA
 Domicile: NW - Khyber Pakhtunkhwa
 Housing Status: No Official

 Temp. Address:
 Figure 1

 City:
 Email: ciazabinad774@gmail.com



System generated document in accordance with APPM 4.6.12.9 (SERVICES/27.07.2019/16:21:36/v1.1) \* All amounts are in Pak Rupees \* Errors & omissions excepted

Dated:04.06.2020

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	al/

Yours Obediently IJAZ AHMAD(SCT), GHS DILDAR GARHI, District Charsadda

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

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION OF THE CONCERNED AUTHORITY BY THE ILLEGALLY AND UNLAWFULLY DEDUCTION, 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 SCT (BPS-16) 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 effects a notification No. FD (PRC) 1-1-/2011 dated 14/7/2011 was issued. Later on vide revised Notification dated 20/12/2012 whereby the conveyance allowance for the employee working in BPS 1 to 15 were enhance/revised while employee from BPS-16 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance as admissible under the law and rules but the concerned authority without any valid and justified reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for leave period. One of the employees 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 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 similar treatment meted out in the above mentioned service appeal but the concerned authority is not walling to issued/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 concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during winter & summer vacations.

Dated:04.06.2020

Allsa

IJAZ AHMAD(SCT), GHS DILDAR GARHI, District Charsadda

Yours Obedieg

To:



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#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRUE PESHAWAR

## APPEAL NO. 1452 /2019

APPELL

Mr. Maqsad 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 SUMMER APPELLANT DURING WINTER 8 OF THE VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT THE 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

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

24/10/19

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#### <u>R/SHEWETH:</u> TESTON FACTS:

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

Conveyance Allowance is admissible to all the civil servant and to this effect a Notification No. FD (PRC) 1-1/2011 date TTESTE14.07.2011 was issued. That later ion vide revised Notification date TTESTE20.12.2012 whereby the conveyance allowance for employed

Appleal No. 1452/2019 Maglad Hayat Vs Govt

1. 11.11.2019

Certified th he ture copy

Service Tribural. Peshawar

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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 doduction 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 libgation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar Hign 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.

Chairman

ANNOUNCED 11.11.2019