FORM OF ORDER SHEET

Form- A

Court of_____

Case No. _____ /2021

up there on ____

2-

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/01/2021	The appeal presented today by Mr. Adnan Aman Advocate may be entered in the Institution Register and put to the Learned Member for
•		proper order please.

01-03-21

This case is entrusted to S. Bench for preliminary hearing to be put

MEMBER(J)

01.03.2021 The learned Member Judicial Mr. Muhammad Jamal Khan is on leave, therefore, the case is adjourned. To come up for the same before S.B on 26.07.2021.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. ____/2021

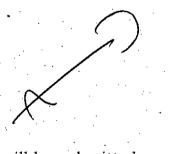
RAINAZ VS EDUCATION DEPTT:

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			•

APPELLANT

THROUGH:



Spare copies will be submitted After submission of the case:

Note; Sir, ADNAN AMAN ADVOCATE HIGH COURT (S) CELL NO 0321-9853530

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO/2/2 /2021

Khybor Pakhtukhwa Service Tribunal

Mrs. RAINAZ, PST (BPS-12)

Diary No. 1577 10 11 10-0

GGPS, SADBAR KELY SAMARBAGH, LOWER DIR Personnel Number: 00800608

.....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.

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS WHO VIDE THE SAME ARE ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST IN ACTION OF THE DEPARTMENTAL APPEALLATE AUTHORITY WHO VIDE THE SAME DID NOT PASS ANY APPROPRIATE ORDER OVER THE DEPARTMENTAL APPEAL OF THE APPEALLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be ordered/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 whave 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 **PRIMARY SCHOOL TEACHER** (PST) **BPS-12** 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

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 are attached as annexure...... **A**.

- 6- That the appellant also prayed to be treated alike through the principles 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 has not been treated by the respondent Department in accordance with law and Rules on the subject noted above and as such the respondents have violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned action of the respondents is without any legal & lawful 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 lawful 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 appellant 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 appellant seeks permission of this Honorable Tribunal 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 RAINAZ THROUGH: ADNAN AMAN ADVOCATE

HIGH COURT(S)

GOVERNMENT OF KHYBER PARHTUNKHWA FINANCE DEPARTMENT

(REGULATION WING)

NO. FD/SO(SR-II) 7-52/2012. Dated Peshawar the: 20-12-2012

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rom	•		
	•	The Secretary to Covil of Khyteer Pashtunkarwa.	.'
1	: · · · ·	Finance Department.	
•	· · ·	Perhavear.	
To:	• • •	All Administrative Secretaries to Gov. of Xinter Pakinturnitive.	
	Y	The Schor Member, Boad of Revenue, Rivber Pakhuaishaa.	•
	2	The Service Member, both a Reperce Triver / Service and	
· .		The Secretary to Coverner Krijber Pakhunkhwa The Secretary to Chiat Missier, Khijber Pakhunkhwa,	
		The Secretary to Lines internet in the Pathlerkhow	
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· · ·	1	AF Dishet Coordination University of Annual Knyber Paklatinkhina AF Poliatal Agents / District & Semicors Judges in Knyber Paklatinkhina	
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	. and the	REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR TH	5
್ರ ೧೯		CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCI	3
•		CIVIL EMPLOYEES OF THE MANUEL	
• '		GOVERNMENT BPS 1-19	
Dea!	51.	in the entrance	ک
		· The Government of Khyle: Pakhturahiva has been pleased to enhance	-

The Government of Khyter Pakhterahive has been pleased to enhance / revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants; Gover of Novber Peahtenishwa (Viorking in BPS-1 to BPS-13) w.e.f from 1st September, 2012. 21. the following rates. However, the conveyance allowance for employees in BPS-15 to BPS-19 will remain unchanged.

		The second second second
S.NO BPS	EXISTING RATE (PH)	REVISED RATE (PM)
	35 500+-	Rs.1.700/-
		Rs.1,840/-
<u></u> _5-10	1	the second se
11:45	<u> 95.2,000/</u>	Rs.2,720/-
· · · · · · · · · · · · · · · · · · ·	Rs.5,000	Rs.5,000/-
10-30		

2. Conveyance Allowance of the grows rates per month shall be admazaible to those BPS-17, 18 and 19 effects who have not been sanctioned official vehicles.

Yours Faithfully,

(Sahibzada Saood Ahmad) Secretary Finance

Endst: NO. FDISO(SR-II):8:52/2012 Dated Pequawar the 20° Directiver, 2013

A Copy is forwarded for information to thet-

Acocumani General, Kander Poklikurikuma, Rusininisi Seoraranisis la Gobernizen di Punjab, South & Solocitatan, Fanando, Department Ali Auroranizatis / Senti Adionetinbus Bectes, n Xingaer Pakturikijika

2 2

(INTIAZ AYUB) Additional Secretary IRAA BETTER COPY PAGE-5

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGUALTION WING)

> NO.FD/SO(SR-II)/52/2012 Dated Peshawar the: 20.12.2012

The Secretary to Govt: of Khyber Pakhtunkhwa.
 Finance Department, Peshawar.

To:

From

- 1. All administrative Secretaries to Govt: of Khyber Pakhtunkhwa:
- 2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
- 3. The Secretary to Governor, Khyber Pakhtinkhwa.
- 4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
- The Sccretary, Provincial Assembly, Khyber Pakhtunkhwa.
 All Heads of attached Departments in Khyber Pakhtunkhwa.
- 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: <u>REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE</u> <u>CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA: PROVINCIAL</u> GOVERNMENT BPS-1-19

Dear Sir,

The Government of Khyber Pakhtunkhwa has been pleased to enhance/relies the rate of Conveyance Allowance admissible to all the Provincial Civil Servants Govt: of Rhyber 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 (PMI)
	1	14	Rs. 1,500/-	Rs. 1,700/-
. •	1.2	5 10 -		Rs. 1;840/-
•	2	11-15	Rs. 2,000/-	Rs. 2,720/-
	<u> </u>	16-19	Rs. 5,000/-	Rs. 5,000/-
	1 4	10-12	1	

Conveyance Allowance at the above rates per month shall be admissible to those BPS-17,
 18 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; 2012

95° 1 N	Dist. Govt. District Accounts Monthly Salary S		Timarga		5-B		
Personal Information of M	/r RINAZ BIBI d/w	· /s of FAZAL A	KBAR	KHAN			
Personnel Number: 008006	08 CNIC: 15303	33550560		NTN:			
Date of Birth: 13.04.1990	vt. Service: 01.8	03.2016	Length	of Service: 04	4 Years 01 M	onths 001 Days	
Employment Category: Vo	ocational Temporary	У	-				
Designation: PRIMARY S			800014	11-DISTRICT GO	OVERNMEN	Т КНҮВЕ	
DDO Code: DA6144-GOV							
Payroll Section: 001	GPF Section:		Cash C				
GPF A/C No:	Interest Applie	ed: Yes		GPF Balance:		22,227.00	
Vendor Number: -						,	
Pay and Allowances:	Pay scale: BI	PS For - 2017	⁻ Pay S	cale Type: Civil	BPS: 12	Pay St	age: 4
Wage ty	pe	Amount	Wage type			Amount	
0001 Basic Pay		17,160.00	1000	House Rent Allo			1,961.00
1210 Convey Allowance 2005		2,856.00	1300	Medical Allowar	nce		1,500.00
1923 UAA-OTHER 20%((1-15)	1,000.00	2148	15% Adhoc Reli	ef All-2013		350.00
2199 Adhoc Relief Allow		226.00	2211	Adhoc Relief Al	1 2016 10%		1,114.00
2224 Adhoc Relief All 20	17 10%	1,716.00	2247	Adhoc Relief Al	I 2018 10%		1,716.00

Deductions - General

2264

Wage type		Vage type Amount		Wage type	Amount
3012	GPF Subscription	-2,220.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp:	-600.00

0.00

1,716.00

Deductions - Loans and Advances

Adhoc Relief All 2019 10%

Loan		Descr	iption	Principal	amount	Deduction	<u>n</u>	Ba	lance
Deductions Payable:	5 - Income Ta 0.00		ed till MAR-2020:	0.00	Exempted	: 0.00 F	lecovera	ble:	0.00
Gross Pay	(Rs.): 31	,315.00	Deductions: (Rs.):	-3,545.00		Net Pay: (Rs.):	27,	770.00	
Account N	ne: RINAZ BI umber: 40230 ils: HABIB B.	13	fed, 221744 Samar B	AGH SAMAR	BAGH, S	AMAR BAGH		,	
Leaves:	Opening	Balance:	Availed:	Earne	d:	Balan	ce:		
Permanent	Address:								
•	IIFIA MAYAI	R .	Domicile: -			Housin	ng Status	: No Offic	ial
Temp. Add City:	dress:		Email: rinazpst@g	gmail.com		A	TE	STE	٥
						6			

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	Dist. Govt. N District Accounts Ionthly Salary Sta		margar	6-	- (
Personal Information of Mr I	DINA 7 BIRI d/w	/c of FA7A1 A1	28ар кнал			
Personnel Number: 00800608	CNIC: 153033		XDAN KHAN	NTN:	•	ł
Date of Birth: 13.04.1990		/t. Service: 01.0	3 2016		vice: 04 Years 00) Months 001 Days
Date of Birth, 15,04,1990		A. Service. 01.0	5.2010	Length of Ber		, Monuis 001 Duys
Employment Category: Vocat	ional Temporary	,				
Designation: PRIMARY SCHO			80001411-DIST	RICT GOVER	NMENT KHYBI	Е
DDO Code: DA6144-GOVT. I		OLS (F) SAMA	RBAGH			
Payroll Section: 001	GPF Section: 0		Cash Center:		· · · ·	
GPF A/C No:	Interest Applie	d: Yes	GPF E	Balance:	20,007.0	00
Vendor Number: -	11				,	
Pay and Allowances:	Pay scale: BP	'S For - 2017	Pay Scale Typ	e: Civil BPS	: 12 Pay	Stage: 4
. Wage type		Amount		Wage type	· · · · · · · · · · · · · · · · · · ·	Amount
0001 Basic Pay	· · · · ·	17,160.00	1000 House I	Rent Allowance	<u>}</u>	1,961.00
1300 Medical Allowance		1,500.00	1923 UAA-C	THER 20%(1-	15)	1,000.00
2148 15% Adhoc Relief All-2	2013	350.00	2199 Adhoc	Relief Allow @)10%	226.00
2211 Adhoc Relief All 2016	10%	1,114.00	2224 Adhoc	Relief All 2017	10%	1,716.00
2247 Adhoc Relief All 2018	10%	1,716.00	2264 Adhoc	Relief All 2019	10%	1,716.00
Deductions - General	-	1				
Wage type		·Amount ·			;	Amount
3012 GPF Subscription		-2,220.00	3501 Benevolent Fund		-600.00	
3990 Emp.Edu. Fund KPK		-125.00	4004 R. Benefits & Death Comp:		-600.00	
Deductions - Loans and Adva	<u></u>					
Loan	Description		Principal amo	unt D	eduction	Balance
Deductions - Income Tax Payable: 0.00 Re	ecovered till FEB-	2020: 0.0	0 Exen	npted: 0.00	Recoverabl	le: 0.00
Gross Pay (Rs.): 28,459.0)0 Deducti	ons: (Rs.):	-3,545.00	Net Pay:	(Rs.): 24,91	14.00
Payee Name: RINAZ BIBI Account Number: 402303 Bank Details: HABIB BANK	LIMITED, 22174	4 SAMAR BAG	H SAMAR BAG	GH, SAMAR B	AGH	
Leaves: Opening Balar	ice: Ava	iled:	Earned:	,	Balance:	
Permanent Address:			·	·		
City: HANIFIA MAYAR	Domi	cile: -			Housing Status:	No Official
Temp. Address:	Donn	0110				
-	Email	. ringzact@ama	leom			
City:	Eman	: rinazpst@gma				
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Subject:

oT.⁴

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-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 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 Maqsad 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: 24.09.2020

Your Obediently RAINAZ

E	8 1	TETRUNAL	Ý.
BEFORE THE KHYBER	PAKHTUNKHWA SI PESHAWAR		

APPEAL NO. 1452 /2019 Bairs 24 10/201

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

VERSUS

1- The Government of Khyber Pakhtunkhwa through Chief Secretary,

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 UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE SUMMER THE APPELLANT DURING WINTER VACATIONS AND AGAINST NO ACTION TAKEN THE ON_ DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance PRAYER: allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted Fleate-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.

24/10/1.9

R/SHEWETH: ON FACTS:

Khyba. 1- That the appellant is serving in the elementary and secondary

EXAMINE

APPELLANT

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 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

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 reinibursed. 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.

Chairmán

the sector

File be consigned to the record. Ê.

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ANNOUNCED

11.11.2019

Peshawaa

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VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

_____ OF 2021

RAINAZ

(APPELLANT)

___(PLAINTIFF)

(PETITIONER)

VERSUS

Education Department

(RESPONDENT) (DEFENDANT)

I/We RAINAZ

do hereby appoint and constitute **ADNAN AMAN**, **Advocate**, **High Court**, **Peshawar** 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.___/__/2021

CLIENT ACCEPTED ADNAN AMAN ADVOCATE