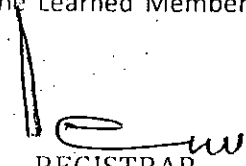



FORM OF ORDER SHEET

Court of _____

Case No. 13521 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/11/2020	<p>The appeal presented today by Mr. Umar Farooq 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-	01.03.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>1/3/21</u></p> <p style="text-align: right;">MEMBER(J)</p> <p>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.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____ /2020

NOOE MAHAL VS EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1- 3.
2.	Notification	A	4.
3.	Pay slips	B & C	5-6.
4.	Service Tribunal judgment	D	7-8.
5.	Departmental Appeal	E	9.
6.	Vakalat nama	


APPELLANT

THROUGH: 

UMAR FAROOQ MOHMAND
ADVOCATE

Flat No. 4, 2nd Floor, Jumma Khan Plaza,
Warsak Road, Peshawar
0313-8901647

Note:
Sir,


Spare copies will be submitted
After submission of the case.

- 3- 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.**
- 4- That appellant was receiving the conveyance allowances 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.**
- 5- That some of colleagues of the appellant approached to this august Tribunal in different service appeal which was allowed by this august Tribunal vide its judgment dated 11.11.2019. Copy of the judgment is attached as annexure.....**D.**
- 6- That appellant preferred departmental appeal before the respondents under the rule of consistency against the unlawful action of deducting the conveyance allowance, but no response has been given by the respondent department till the expiry of statutory period of ninety days. Copy of the departmental appeal is attached as annexure.....**E.**
- 7- That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

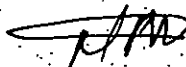
GROUND:

- 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 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 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, and 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 petitioners 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



Noor Mahal



THROUGH:

UMAR FAROOQ MOHMAND

&



**KAMRAN KHAN
ADVOCATES**

A-4



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD/SG(SR-IT)-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 Pakhtunkhwa
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 in 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 enhance /
revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants, Govt.
of Khyber 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 (PM)
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/-

2. 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 vehicles.

Yours Faithfully,

(Sahibzada Saood Ahmad)
Secretary Finance.

Encls: NO. FD/SG(SR-IT)-8-52/2012

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, Govt. of Sindh & Government of Balochistan, Finance Department
3. All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa.

(INTIAZ AYUB)

Additional Secretary (Reg)

TESTED

A-4

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO.FD/SO(SR-II)/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 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 & 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 PAKHTUNKHWA, PROVINCIAL GOVERNMENT BPS-1-19

Dear Sir,

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2. 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

J
ATTESTED

B5

GHALANAI

S#: 1

P Sec:001 Month:February 2020
MG6013 -DEO Primary Education Mohm
DEO PRIMARY EDUCATION MOH

Pers #: 00102276 Buckle:

Name: NOOR MAHAL

NTN:

PRIMARY SCHOOL TEACHER

GPF #: IV.EDU.MND.4256

CN No.1610222264358

Old #:

GPF Interest Applied

15 Active Temporary

MG6013 -

PAYS AND ALLOWANCES:

0001-Basic Pay	33,410.00
1000-House Rent Allowance	2,349.00
1210-Convey Allowance 2005	2,856.00
1300-Medical Allowance	1,500.00
1505-Charge Allowance	40.00
1528-Unattractive Area Allow	1,500.00
2148-15% Adhoc Relief All-2013	614.00
2199-Adhoc Relief Allow @10%	411.00
2211-Adhoc Relief All 2016 10%	2,471.00
Gross Pay and Allowances	55,174.00

DEDUCTIONS:

IT Payable	757.32	Deducted	1,083.00	TAX: (3609)	190.00
GPF Balance	369,898.00			Subrc:	2,890.00
3501-Benevolent Fund					600.00
3990-Emp.Edu. Fund KPK					125.00
4004-R. Benefits & Death Comp:					600.00

Total Deductions 4,405.00

50,769.00

D.O.B

LFP Quota:

01.01.1965

UNITED BANK LIMITED SHABQADAR

21 Years 02 Months 001 Days

010-2745-2

Handwritten mark

ATTESTED

noor mahal

S#: 1 GHALANAI

Pers #: 00102276 Buckle:
Name: NOOR MAHAL
PRIMARY SCHOOL TEACHER
CNIC No.1610222264358
GPF Interest Applied
15 Active Permanent

P Sec:001 Month:June 2019
MG0005 -Agency Education Officer M
Min. Of K.A & N.A & S.F.R

NTN:
GPF #: IV.EDU.MND.4256
Old #:

PAYS AND ALLOWANCES:

0001-Basic Pay-	32,080.00
1000-House Rent Allowance	2,349.00
1300-Medical Allowance	1,500.00
1505-Charge Allowance	40.00
1528-Unattractive Area Allow	1,500.00
2148-15% Adhoc Relief All-2013	614.00
2199-Adhoc Relief Allow @10%	411.00
2211-Adhoc Relief All 2016 10%	2,471.00
2224-Adhoc Relief All 2017 10%	3,208.00
Gross Pay and Allowances	47,381.00

MG0005 -

DEDUCTIONS:

IT Payable	0.00	Deducted	250.00	TAX: (3609)	770.00
GPF Balance	305,255.00			Subrc:	2,890.00
3661-E.E.F (Exchange)					100.00
3701-Benevolent Fund(Exchange)					600.00
3705-R. Ben & Death Comp(Exch)					600.00

Total Deductions. 4,960.00

42,421.00

D.O.B
01.01.1965
20 Years 06 Months 001 Days

LFP Quota:
UNITED BANK LIMITED SHABQADAR
010-2745-2

S#: 2 GHALANAI

Pers #: 00102276 Buckle:
Name: NOOR MAHAL
PRIMARY SCHOOL TEACHER
CNIC No.1610222264358
GPF Interest Applied
15 Active Permanent

P Sec:001 Month:June 2019
MG0005 -Agency Education Officer M
Min. Of K.A & N.A & S.F.R

NTN:
GPF #: IV.EDU.MND.4256
Old #:

PAYS AND ALLOWANCES:

2247-Adhoc Relief All 2018 10%	3,208.00
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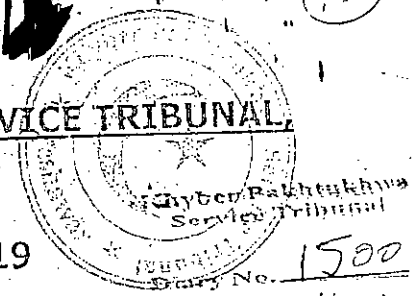
MG0005 -


ATTESTE

D7

E8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR



APPEAL NO. 1452 /2019

Date 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.

Registered 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

EXAMINED
Khyber Pakhtunkhwa
Service

TESTED

14/10/19

Appeal No. 1452/2019
Masood Hayat vs Govt

221 (5)
(8)

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.

ATTESTED

Chairman

ANNOUNCED

11.11.2019

ATTESTED

Signature

Peshawar

Signature

Signature

YAKAJANAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

OF 2020 _____

(APPELLANT)

_____ Floor 4th
(PLAINTIFF) _____
(PETITIONER)

VERSUS

(RESPONDENT)

_____ Education Department _____
(DEFENDANT)

I/We hereby appoint and constitute UMAR FAROOQ MOHAMMAD, Advocate, 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: _____ / _____ / 2020

CLIENT

ACCEPTED
UMAR FAROOQ MOHAMMAD

&

AMRAN KHAN
ADVOCATES



OFFICE:
Flat No. 4, 2nd Floor, Jinnah Khan Plaza,
Wazir Road, Peshawar
0313-8901674