

Form- A

FORM OF ORDER SHEET

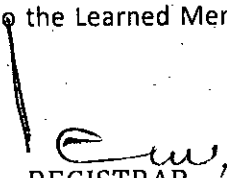

Court of _____

Case No. -

14898

/2020

20

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 24/11/2020 | <p>The appeal presented today by Mr. Taimur Ali Khan 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> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01 - 03 - 21</u></p> <p style="text-align: right;">MEMBER(J)</p> |
| 2- | 01.03.2021 | <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 KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2020

Mian Rasool

V/S

Govt: of KP etc

INDEX

| S. No. | Documents | Annexure | P. No. |
|--------|--|----------|--------|
| 01 | Memo of appeal | ----- | 01-04 |
| 02 | Copy of the Notification dated 20.12.2012 | A | 05 |
| 03 | Copies of the salary slips of working/serving month and vacations (deduction period) | B&C | 06-07 |
| 04 | Copy of the Departmental appeal | D | 08 |
| 05 | Copies of judgments | E | 09-12 |
| 06 | Wakalat Nama | ----- | 13 |

APPELLANT

THROUGH:



**(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&**

**(ASAD MAHMOOD)
ADVOCATE HIGH COURT.
Room No.Fr-08, 4th Flour,
Bilour plaza, Peshawar cantt:
Cell# 0333-9390916.**

Note: Spares copies of the appeal will be provided after the preliminary hearing of the case.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

14893

Service Appeal No. _____/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1559

Dated 24/11/2020

Mian Rasool, SET (BPS-16),
GHSS Naro Banda Gadoon, Distt: Swabi.

APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, 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.
6. The District Education Officer (Male), Swabi.
7. The District Account Officer, Swabi.

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 AND SUMMER VACATIONS AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day

Registrar

24/11/20

PRAYER

THAT ON THE ACCEPTANCE OF THIS APPEAL RESPONDENTS MAY KINDLY BE DIRECTED NOT TO MAKE DEDUCTION OF CONVEYANCE ALLOWANCE DURING VACATIONS PERIOD (SUMMER & WINTER VACATION) 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 AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:
FACTS:**

1. That the appellant is serving in the Elementary and Secondary Education Department as SET (BPS-16) quite efficiency and upto 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 working in BPS-01 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)**
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 appellant feeling aggrieved from the action of the respondents regarding deduction of conveyance allowance in vacations period/months filled departmental appeal but was not responded with in the statutory period of ninety days. **(Copy of the Departmental appeal is attached as Annexure-D)**
5. That appellant 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 the conveyance allowance for vacations period/months is illegal, against the law, facts and norms of justice.
- B. That the appellant have not been treated by the respondents 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, 1989 while the vacations are always announced by the Government, therefore under the law and rules are 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 year are credited to his account and there is no question of deduction of conveyance 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 similar nature appeals were allowed by this august Tribunal in preliminary hearing and the appellant being similar placed person is also entitled the same relief under the principle of consistency and Supreme Court judgment reported as **2009-SCMR-01. (Copies of judgments are attached as Annexure-E)**
- G. That as the act of the respondents is illegal, without any legal authority and not only discriminatory but in is also the result of malafide on the part of respondents.
- H. 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 institutional and clear violation of fundamental rights.
- I. That according to Government Servants Revised Leave Rules, 1981 vacations are holidays and not leave of any kind, therefore, the deduction of conveyance allowances in vacations is against the law and rules.
- J. 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.

K. That the appellant seeks permission of this Honorable Tribunal to advance other grounds and proofs at the time of hearing.

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


APPELLANT
Mian Rasool

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

(ASAD MAHMOOD)
ADVOCATE HIGH COURT
&

(ABDUL WAHID)
ADVOCATE

Handwritten initials/signature

(INITIALS AYUB)

ATTENDED

Account General, Khuzdar, Baluchistan, Pakistan.
 Secretaries to Government of Punjab, Sindh & Government of West Bengal.
 All Autonomous / Semi Autonomous Bodies in Khuzdar, Pakistan.

A Copy is forwarded for information to the:-

Order No. FDSO(SR-11)8-52/2012 Date Forwarded the 10th December, 2012

(Sambanda Saad Ahmad)
 Secretary Finance

Yours Faithfully,

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.

| S.No | BPS | EXISTING RATE (PK) | REVISED RATE (PK) |
|------|-------|--------------------|-------------------|
| 1 | 14 | RS.1,500/- | RS.1,700/- |
| 2 | 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/- |

will remain unchanged.

the following rates. However, the conveyance allowance for employees in BPS-16 to BPS-19

of Khyber Pakhtunkhwa (working in BPS-1 to BPS-16) will, from 1st September, 2012 at

the rate of Conveyance Allowance admissible to all the Provincial Civil Servants, Govt.

The Government of Khyber Pakhtunkhwa has been pleased to enhance /

Order No.

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

Subject

- 1. All Administrative Officers to Govt. of Khyber Pakhtunkhwa
- 2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa
- 3. The Secretary to Govt. of Khyber Pakhtunkhwa
- 4. The Secretary to Chief Minister, Khyber Pakhtunkhwa
- 5. The Secretary, Provincial Accounts, Khyber Pakhtunkhwa
- 6. All Heads of Attached Departments in Khyber Pakhtunkhwa
- 7. All District Coordination Officers, Khyber Pakhtunkhwa
- 8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
- 9. The Registrar, High Court, Peshawar
- 10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa
- 11. The Chairman, Revenue Tribunal, Khyber Pakhtunkhwa

To:

Peshawar

Finance Department

The Secretary to Govt. of Khyber Pakhtunkhwa

From

NO. FDSO(SR-11)8-52/2012
 Dated Peshawar the: 20-12-2012

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



Handwritten initials/signature

BETTER COPY PAGE-5

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,

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 vehicle.

Your Faithfully

(Sahibzada Saeed Ahmad)
Secretary Finance

Endst No. FD/SO(SR-II)8-52/2012 Dated Peshawar the 20th December, 2012

ATTESTED

[Signature]

ATTESTED

[Signature]

Dist. Govt. NWFP-Provincial
District Accounts Office Sawabi
Monthly Salary Statement (September-2019)

B 6



Personal Information of Mr MIAN RASOOL d/w/s of SAID RASOOL

Personnel Number: 00234235 CNIC: 1620209613595 NTN:
 Date of Birth: 05.03.1966 Entry into Govt. Service: 08.12.1990 Length of Service: 28 Years 09 Months 024 Days

Employment Category: Active Permanent

Designation: SENIOR ENGLISH TEACHER 80004564-DISTRICT GOVERNMENT KHYBE

DDO Code: SU6056-Principal GHSS Naro Banda Gadoon Swabi

Payroll Section: 003 GPF Section: 001 Cash Center:

GPF A/C No: Interest Applied: Yes **GPF Balance:** 1,076,672.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 16 Pay Stage: 26

| Wage type | | Amount | Wage type | | Amount |
|-----------|---------------------------|-----------|-----------|---------------------------|----------|
| 0001 | Basic Pay | 58,430.00 | 1000 | House Rent Allowance | 2,727.00 |
| 1210 | Convey Allowance 2005 | 5,000.00 | 1924 | UAA-OTHER 20%(16 G/NG) | 1,500.00 |
| 1947 | Medical Allow 15% (16-22) | 2,396.00 | 2148 | 15% Adhoc Relief All-2013 | 1,300.00 |
| 2199 | Adhoc Relief Allow @10% | 918.00 | 2211 | Adhoc Relief All 2016 10% | 4,660.00 |
| 2224 | Adhoc Relief All 2017 10% | 5,843.00 | 2247 | Adhoc Relief All 2018 10% | 5,843.00 |
| 2264 | Adhoc Relief All 2019 10% | 5,843.00 | | | 0.00 |

Deductions - General

| Wage type | | Amount | Wage type | | Amount |
|-----------|---------------------------|-----------|-----------|-------------------|---------|
| 3016 | GPF Subscription | -3,340.00 | 3501 | Benevolent Fund | -800.00 |
| 3609 | Income Tax | -2,223.00 | 3990 | Emp.Edu. Fund KPK | -150.00 |
| 4004 | R. Benefits & Death Comp: | -650.00 | | | 0.00 |

Deductions - Loans and Advances

| Loan | Description | Principal amount | Deduction | Balance |
|------|---------------------------|------------------|------------|------------|
| 6505 | GPF Loan Principal Instal | 600,000.00 | -16,667.00 | 466,664.00 |

Deductions - Income Tax

Payable: 26,176.06 Recovered till September-2019: 6,170.00 Exempted: 0.13- Recoverable: 20,006.19

Gross Pay (Rs.): 94,460.00 Deductions: (Rs.): -23,830.00 Net Pay: (Rs.): 70,630.00

Payee Name: MIAN RASOOL

Account Number: 5815-1

Bank Details: NATIONAL BANK OF PAKISTAN, 230503 TOPI BRANCH TOPI BRANCH, SWABI

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: VILL AND PO UTLA SWABI

City: SWABI Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City: Email:

ATTESTED

(Handwritten signature)

Dist. Govt. NWFP-Provincial
District Accounts Office Swabi
Monthly Salary Statement (August-2019)

90



Personal Information of Mr MIAN RASOOL d/w/s of SAID RASOOL

Personnel Number: 00234235 CNIC: 1620209613595 NTN:
 Date of Birth: 05.03.1966 Entry into Govt. Service: 08.12.1990 Length of Service: 28 Years 08 Months 025 Days

Employment Category: Active Permanent

Designation: SENIOR ENGLISH TEACHER 80004564-DISTRICT GOVERNMENT KHYBE
 DDO Code: SU6056-Principal GHSS Naro Banda Gadoon Swabi
 Payroll Section: 003 GPF Section: 001 Cash Center:
 GPF A/C No: Interest Applied: Yes **GPF Balance:** 1,056,665.00
 Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay, Scale Type: Civil BPS: 16 Pay Stage: 26

| Wage type | | Amount | Wage type | | Amount |
|-----------|---------------------------|-----------|-----------|---------------------------|----------|
| 0001 | Basic Pay | 58,430.00 | 1000 | House Rent Allowance | 2,727.00 |
| 1924 | UAA-OTHER 20%(16 G/NG) | 1,500.00 | 1947 | Medical Allow 15% (16-22) | 2,396.00 |
| 2148 | 15% Adhoc Relief All-2013 | 1,300.00 | 2199 | Adhoc Relief Allow @10% | 918.00 |
| 2211 | Adhoc Relief All 2016 10% | 4,660.00 | 2224 | Adhoc Relief All 2017 10% | 5,843.00 |
| 2247 | Adhoc Relief All 2018 10% | 5,843.00 | 2264 | Adhoc Relief All 2019 10% | 5,843.00 |

Deductions - General

| Wage type | | Amount | Wage type | | Amount |
|-----------|---------------------------|-----------|-----------|-------------------|---------|
| 3016 | GPF Subscription | -3,340.00 | 3501 | Benevolent Fund | -800.00 |
| 3609 | Income Tax | -1,973.00 | 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 |
|------|---------------------------|------------------|------------|------------|
| 6505 | GPF Loan Principal Instal | 600,000.00 | -16,667.00 | 483,331.00 |

Deductions - Income Tax

Payable: 23,676.08 Recovered till August-2019: 3,947.00 Exempted: 0.12- Recoverable: 19,729.20

Gross Pay (Rs.): 89,460.00 Deductions: (Rs.): -24,019.00 Net Pay: (Rs.): 65,441.00

Payee Name: MIAN RASOOL
 Account Number: 5815-1
 Bank Details: NATIONAL BANK OF PAKISTAN, 230503 TOPI BRANCH TOPI BRANCH, SWABI

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: VILL AND PO UTLA SWABI
 City: SWABI Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
 Temp. Address:
 City: Email:

ATTESTED

To,

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

Subject: **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 SET (BPS-16) with 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. Letter on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees working in BPS 1 to 15 were enhanced/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. The august KPK Service Tribunal allowed the restoration of the conveyance allowance in its judgment dated 11.11.2019 in appeal no. 1452/2019 title Maqsd Hayat vs Education Department. **Copy attached.** 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 not willing to issue/grant the same conveyance allowance which is granted to other employees. I am feeling aggrieved from the action of concerned authority regarding deduction of conveyance allowance in vacation period/months preferred this Departmental Appeal before your good self.

It is therefore, most humbly prayed that on accepting this Departmental Appeal the concerned authority may very kindly be directed that conveyance allowance may not be deducted from my monthly salary during summer and winter vacations and make the payment of all outstanding amount of conveyance allowance which have been deducted previously.

Dated: 04.08.2020

ATTESTED

[Signature]

Your's Obediently

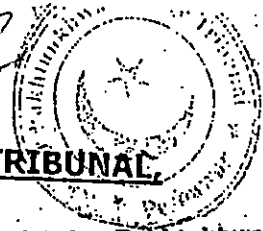
[Signature]

Mian Rasool, SET

GHSS Naro Banda Gadoon, Distt: Swabi

G-16 (1) EG

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**



APPEAL NO. 1452 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1500

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

Dated 24/10/2019

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.

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

ACCEPTED

AR

ATTESTED
BY MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Filed to-day
Registrar
24/10/19

Re-submitted to-day
14/11/19

Appeal No. 1452/2019
Marshed Hayat vs Govt

(10)
G-16
2

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.


Chairman

ANNOUNCED

11.11.2019

ATTESTED


Certified to be true copy

11.11.2019
Chairman
Federal Service Tribunal
Peshawar

ATTESTED

11.11.2019
Chairman
Federal Service Tribunal
Peshawar

(11)



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1636/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1765

Dated 11/3/2020

Muhammad Naeem Khan CT (BPS-15),
GHS Kotli Saleh Khana, Nowshera.

APPELLANT

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, 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 AND SUMMER VACATIONS AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER


THAT ON THE ACCEPTANCE OF THIS APPEAL RESPONDENTS MAY KINDLY BE DIRECTED NOT TO MAKE DEDUCTION OF CONVEYANCE ALLOWANCE DURING VACATIONS PERIOD (SUMMER & WINTER VACATION) 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 AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED



Certified to be true copy


Khyber Pakhtunkhwa Service Tribunal

Filed to-day

Registrar
11/3/2020



12

06.07.2020

Counsel for the appellant present.

1. At the outset learned counsel referred to copy of order dated 11.11.2019 passed in Appeal No. 1452/2019 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.

3. As a disgruntled, the appellant appears to be placed similar to a number of petitioners in Writ Petition No.3162-P/2019 and other connected matters decided by the Hon'ble Peshawar High Court. Under the principle of consistency, it would, therefore, be appropriate to dispose of the appeal in hand in accordance with the order dated 11.11.2019 passed in Service Appeal No.1452. Disposed of similarly. File be consigned to the record room.

ATTESTED

ANNOUNCED
06.07.2020

Certified to be true copy

Member (J)

VAKALAT NAMA

NO. _____/2020

IN THE COURT OF KP Service Tribunal Peshawar

Mian Rasool.

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt of KP etc.

(Respondent)
(Defendant)

I/We, Mian Rasool.

Do hereby appoint and constitute **Taimur Ali Khan, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2020

Mian Rasool.
(CLIENT)

ACCEPTED

Taimur Ali Khan
TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
CNIC: 17101-7395544-5
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