

03.06.2020

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 (annexure-C) and requested for disposal of instant appeal also in terms of the order.
2. It shall be useful for the purpose to reproduce hereunder the contents of referred order dated 11.11.2019:-

"Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.

Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal.

The record suggests that while handing down judgment in the Writ Petition preferred by the appellant, the Honourable High Court not only expounded the definition of "Pay" as well as "Salary" but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.

In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ Petitions including W.P No. 3162-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a reasonable time.

File be consigned to the record."

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

Chairman



ANNOUNCED
03.06.2020

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 4187/2020.

Mohammad Raza Shah **Appellant**


V E R S U S

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

I N D E X

S. No	Description of Documents	Annexure	Pages
1.	Service appeal		1-2
2.	Copy of Pay Slip	A	3-4
3.	Copy of departmental appeal	B	5
4.	Copies of Judgments	C	6-10
5.	Wakalat Nama		11

Dated:-24-03-2020


Appellant
Through

Fazal Shah Mohmand
Advocate Supreme Court.

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841

Email: - fazalshahmohmand@gmail.com.

Note:-

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


Advocate

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 4187/2020

Mohammad Raza Shah, Primary School Head Teacher (PSHT), Govt.
Primary School (GPS), Afsar abad, District Mardan.....**Appellant**

Pakhtukhwa
Service Tribunal
Diary No. 3490
Dated 6-5-20

V E R S U S

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

.....**Respondents**

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

Filed to-day
Registrar
6/5/20

PRAYER:-

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

Respectfully Submitted:-

1. That the appellant is serving in the respondent department and since then he performed his duties with honesty and full devotion with spotless service career.
2. That the department in which the appellant is serving is vacation department and the conveyance allowance is deducted from the appellant during summer and Winter vacations in violation of **Rule 82 (b)** of the Fundamental Rules 1922, according to which **vacation counts as duty. (Copy of Pay Slip is enclosed as Annexure A).**
3. That the appellant approached respondents for directing respondents to pay him the conveyance allowance during summer and winter vacations with further directions to the respondents to pay the appellant the already illegally deducted amount in this

regard, vide departmental appeal which has not been responded so far despite the lapse of the statutory period of ninety days.
(Copy of departmental appeal is enclosed as Annexure B).

4. That this action of the respondents of not paying the appellant the conveyance allowance during the summer and winter vacations and not paying the appellant the illegally deducted amount in this respect, is against the law, facts and principles of justice on grounds inter alia as follows:-

GROUND S:-

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

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

Dated:-24-03-2020

Through


Appellant

Fazal Shah Mohmand
Advocate Supreme Court.

Dist. Govt. NWFP-Provincial
District Accounts Office Mardan
Monthly Salary Statement (May-2019)



"A"



-3-

Personal Information of Mr MOHAMMAD RAZA SHAH d/w/s of PIR MOHAMMAD JUNAID

Personnel Number: 00128563 CNIC: 1610268165359 NTN: 0
Date of Birth: 06.04.1973 Entry into Govt. Service: 24.06.1997 Length of Service: 21 Years 11 Months 009 Days

Employment Category: Vocational Permanent

Designation: SENIOR PRIMARY SCHOOL TEA 80003433-DISTRICT GOVERNMENT KHYBE

DDO Code: MR6157-DY.DISTRICT EDUCATION OFFICER (M) TAKHT BHAI MARDAN

Payroll Section: 003 GPF Section: 001 Cash Center: 6

GPF A/C No: EDUMR011478 Interest Applied: Yes GPF Balance: 437,209.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 14 Pay Stage: 18

Wage type		Amount	Wage type		Amount
0001	Basic Pay	36,240.00	1000	House Rent Allowance	2,214.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	827.00	2199	Adhoc Relief Allow @10%	555.00
2211	Adhoc Relief All 2016 10%	2,840.00	2224	Adhoc Relief All 2017 10%	3,624.00
2247	Adhoc Relief All 2018 10%	3,624.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3014	GPF Subscription - Rs2620	-2,620.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-50.00	3990	Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-1,052.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 1,000.00 Recovered till MAY-2019: 550.00 Exempted: 400.00 Recoverable: 50.00

Gross Pay (Rs.): 54,280.00 Deductions: (Rs.): -4,447.00 Net Pay: (Rs.): 49,833.00

Payee Name: MOHAMMAD RAZA SHAH

Account Number: PLS000000139455

Bank Details: NATIONAL BANK OF PAKISTAN, 230365 MARDAN MAIN BRCH MARDAN MAIN BRCH, MARDAN

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: MOH PIRAN VILL & P OGUJAR GARHTEH DISTT

City: MARDAN Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City: Email: razashahmrd222@gmail.com

ATTESTED
TO BE TRUE COPY

Dist. Govt. NWFP-Provincial
District Accounts Office Mardan
Monthly Salary Statement (June-2019)

- 4 -



Personal Information of Mr MOHAMMAD RAZA SHAH d/w/s of PIR MOHAMMAD JUNAID

Personnel Number: 00128563 CNIC: 1610268165359 NTN: 0
 Date of Birth: 06.04.1973 Entry into Govt. Service: 24.06.1997 Length of Service: 22 Years 00 Months 008 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL HEAD TEACH 80003433-DISTRICT GOVERNMENT KHYBE

DDO Code: MR6157-DY.DISTRICT EDUCATION OFFICER (M) TAKHT BHAI MARDAN

Payroll Section: 003 GPF Section: 001 Cash Center: 6

GPF A/C No: EDUMR011478 Interest Applied: Yes **GPF Balance:** 440,099.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 15 Pay Stage: 17

Wage type		Amount	Wage type		Amount
0001	Basic Pay	38,730.00	1000	House Rent Allowance	2,349.00
1300	Medical Allowance	1,500.00	2148	15% Adhoc Relief All-2013	827.00
2199	Adhoc Relief Allow @10%	555.00	2211	Adhoc Relief All 2016 10%	2,840.00
2224	Adhoc Relief All 2017 10%	3,873.00	2247	Adhoc Relief All 2018 10%	3,873.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription - Rs2890	-2,890.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-50.00	3990	Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-1,052.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 1,000.00 Recovered till JUN-2019: 600.00 Exempted: 400.00 Recoverable: 0.00

Gross Pay (Rs.): 54,547.00 Deductions: (Rs.): -4,717.00 Net Pay: (Rs.): 49,830.00

Payee Name: MOHAMMAD RAZA SHAH

Account Number: PLS000000139455

Bank Details: NATIONAL BANK OF PAKISTAN, 230365 MARDAN MAIN BRCH MARDAN MAIN BRCH, MARDAN

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: MOH PIRAN VILL & P OGUJAR GARHITEH DISTT

City: MARDAN Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City: Email: razashahmrd222@gmail.com

ATTESTED
 TO BE TRUE COPY



District Accounts Officer, Mandya
Monthly Salary Statement (June-2019)

Personal Information of Mr. MOHAMMAD KAZEM SHAHID: PAN: MZAK1234K
 Date of Birth: 05/04/1973
 Present Govt. Service: 24/06/1997
 Length of Service: 22 Years (05 Months 09 Days)
 A.T.N.O. No: 14102081023

Employment Category: **Advt. Temporary**
 Designation: **PRIMARY SCHOOL HEAD TEACHER**
 DDO Code: **MRAIADY DISTRICT EDUCATION OFFICER (M) TANKH BHAI MARIAN**
 Pay Band: **Pay Band 003**
 Pay Scale: **GPI Section 001**
 Grade Pay: **₹ 1000/-**
 Dearness Allowance: **₹ 1000/-**
 City Allowance: **₹ 1000/-**
 House Rent Allowance: **₹ 1000/-**
 Special Allowance: **₹ 1000/-**
 Total: **₹ 10000/-**

Sl. No.	Particulars	Amount	Debit	Credit
0001	Basic Pay	38,750.00		38,750.00
0002	Dearness Allowance	1,000.00		1,000.00
0003	City Allowance	1,000.00		1,000.00
0004	House Rent Allowance	1,000.00		1,000.00
0005	Special Allowance	1,000.00		1,000.00
0006	Gr. Pay	1,000.00		1,000.00
0007	House Rent Allowance	1,000.00		1,000.00
0008	Dearness Allowance	1,000.00		1,000.00
0009	City Allowance	1,000.00		1,000.00
0010	House Rent Allowance	1,000.00		1,000.00
0011	Special Allowance	1,000.00		1,000.00
0012	Gr. Pay	1,000.00		1,000.00
0013	House Rent Allowance	1,000.00		1,000.00
0014	Dearness Allowance	1,000.00		1,000.00
0015	City Allowance	1,000.00		1,000.00
0016	House Rent Allowance	1,000.00		1,000.00
0017	Special Allowance	1,000.00		1,000.00
0018	Gr. Pay	1,000.00		1,000.00
0019	House Rent Allowance	1,000.00		1,000.00
0020	Dearness Allowance	1,000.00		1,000.00
0021	City Allowance	1,000.00		1,000.00
0022	House Rent Allowance	1,000.00		1,000.00
0023	Special Allowance	1,000.00		1,000.00
0024	Gr. Pay	1,000.00		1,000.00
0025	House Rent Allowance	1,000.00		1,000.00
0026	Dearness Allowance	1,000.00		1,000.00
0027	City Allowance	1,000.00		1,000.00
0028	House Rent Allowance	1,000.00		1,000.00
0029	Special Allowance	1,000.00		1,000.00
0030	Gr. Pay	1,000.00		1,000.00
0031	House Rent Allowance	1,000.00		1,000.00
0032	Dearness Allowance	1,000.00		1,000.00
0033	City Allowance	1,000.00		1,000.00
0034	House Rent Allowance	1,000.00		1,000.00
0035	Special Allowance	1,000.00		1,000.00
0036	Gr. Pay	1,000.00		1,000.00
0037	House Rent Allowance	1,000.00		1,000.00
0038	Dearness Allowance	1,000.00		1,000.00
0039	City Allowance	1,000.00		1,000.00
0040	House Rent Allowance	1,000.00		1,000.00
0041	Special Allowance	1,000.00		1,000.00
0042	Gr. Pay	1,000.00		1,000.00
0043	House Rent Allowance	1,000.00		1,000.00
0044	Dearness Allowance	1,000.00		1,000.00
0045	City Allowance	1,000.00		1,000.00
0046	House Rent Allowance	1,000.00		1,000.00
0047	Special Allowance	1,000.00		1,000.00
0048	Gr. Pay	1,000.00		1,000.00
0049	House Rent Allowance	1,000.00		1,000.00
0050	Dearness Allowance	1,000.00		1,000.00
0051	City Allowance	1,000.00		1,000.00
0052	House Rent Allowance	1,000.00		1,000.00
0053	Special Allowance	1,000.00		1,000.00
0054	Gr. Pay	1,000.00		1,000.00
0055	House Rent Allowance	1,000.00		1,000.00
0056	Dearness Allowance	1,000.00		1,000.00
0057	City Allowance	1,000.00		1,000.00
0058	House Rent Allowance	1,000.00		1,000.00
0059	Special Allowance	1,000.00		1,000.00
0060	Gr. Pay	1,000.00		1,000.00
0061	House Rent Allowance	1,000.00		1,000.00
0062	Dearness Allowance	1,000.00		1,000.00
0063	City Allowance	1,000.00		1,000.00
0064	House Rent Allowance	1,000.00		1,000.00
0065	Special Allowance	1,000.00		1,000.00
0066	Gr. Pay	1,000.00		1,000.00
0067	House Rent Allowance	1,000.00		1,000.00
0068	Dearness Allowance	1,000.00		1,000.00
0069	City Allowance	1,000.00		1,000.00
0070	House Rent Allowance	1,000.00		1,000.00
0071	Special Allowance	1,000.00		1,000.00
0072	Gr. Pay	1,000.00		1,000.00
0073	House Rent Allowance	1,000.00		1,000.00
0074	Dearness Allowance	1,000.00		1,000.00
0075	City Allowance	1,000.00		1,000.00
0076	House Rent Allowance	1,000.00		1,000.00
0077	Special Allowance	1,000.00		1,000.00
0078	Gr. Pay	1,000.00		1,000.00
0079	House Rent Allowance	1,000.00		1,000.00
0080	Dearness Allowance	1,000.00		1,000.00
0081	City Allowance	1,000.00		1,000.00
0082	House Rent Allowance	1,000.00		1,000.00
0083	Special Allowance	1,000.00		1,000.00
0084	Gr. Pay	1,000.00		1,000.00
0085	House Rent Allowance	1,000.00		1,000.00
0086	Dearness Allowance	1,000.00		1,000.00
0087	City Allowance	1,000.00		1,000.00
0088	House Rent Allowance	1,000.00		1,000.00
0089	Special Allowance	1,000.00		1,000.00
0090	Gr. Pay	1,000.00		1,000.00
0091	House Rent Allowance	1,000.00		1,000.00
0092	Dearness Allowance	1,000.00		1,000.00
0093	City Allowance	1,000.00		1,000.00
0094	House Rent Allowance	1,000.00		1,000.00
0095	Special Allowance	1,000.00		1,000.00
0096	Gr. Pay	1,000.00		1,000.00
0097	House Rent Allowance	1,000.00		1,000.00
0098	Dearness Allowance	1,000.00		1,000.00
0099	City Allowance	1,000.00		1,000.00
0100	House Rent Allowance	1,000.00		1,000.00

Sl. No.	Particulars	Amount	Debit	Credit
0001	Income Tax	1,000.00	1,000.00	
0002	Income Tax	1,000.00	1,000.00	
0003	Income Tax	1,000.00	1,000.00	
0004	Income Tax	1,000.00	1,000.00	
0005	Income Tax	1,000.00	1,000.00	
0006	Income Tax	1,000.00	1,000.00	
0007	Income Tax	1,000.00	1,000.00	
0008	Income Tax	1,000.00	1,000.00	
0009	Income Tax	1,000.00	1,000.00	
0010	Income Tax	1,000.00	1,000.00	
0011	Income Tax	1,000.00	1,000.00	
0012	Income Tax	1,000.00	1,000.00	
0013	Income Tax	1,000.00	1,000.00	
0014	Income Tax	1,000.00	1,000.00	
0015	Income Tax	1,000.00	1,000.00	
0016	Income Tax	1,000.00	1,000.00	
0017	Income Tax	1,000.00	1,000.00	
0018	Income Tax	1,000.00	1,000.00	
0019	Income Tax	1,000.00	1,000.00	
0020	Income Tax	1,000.00	1,000.00	
0021	Income Tax	1,000.00	1,000.00	
0022	Income Tax	1,000.00	1,000.00	
0023	Income Tax	1,000.00	1,000.00	
0024	Income Tax	1,000.00	1,000.00	
0025	Income Tax	1,000.00	1,000.00	
0026	Income Tax	1,000.00	1,000.00	
0027	Income Tax	1,000.00	1,000.00	
0028	Income Tax	1,000.00	1,000.00	
0029	Income Tax	1,000.00	1,000.00	
0030	Income Tax	1,000.00	1,000.00	
0031	Income Tax	1,000.00	1,000.00	
0032	Income Tax	1,000.00	1,000.00	
0033	Income Tax	1,000.00	1,000.00	
0034	Income Tax	1,000.00	1,000.00	
0035	Income Tax	1,000.00	1,000.00	
0036	Income Tax	1,000.00	1,000.00	
0037	Income Tax	1,000.00	1,000.00	
0038	Income Tax	1,000.00	1,000.00	
0039	Income Tax	1,000.00	1,000.00	
0040	Income Tax	1,000.00	1,000.00	
0041	Income Tax	1,000.00	1,000.00	
0042	Income Tax	1,000.00	1,000.00	
0043	Income Tax	1,000.00	1,000.00	
0044	Income Tax	1,000.00	1,000.00	
0045	Income Tax	1,000.00	1,000.00	
0046	Income Tax	1,000.00	1,000.00	
0047	Income Tax	1,000.00	1,000.00	
0048	Income Tax	1,000.00	1,000.00	
0049	Income Tax	1,000.00	1,000.00	
0050	Income Tax	1,000.00	1,000.00	
0051	Income Tax	1,000.00	1,000.00	
0052	Income Tax	1,000.00	1,000.00	
0053	Income Tax	1,000.00	1,000.00	
0054	Income Tax	1,000.00	1,000.00	
0055	Income Tax	1,000.00	1,000.00	
0056	Income Tax	1,000.00	1,000.00	
0057	Income Tax	1,000.00	1,000.00	
0058	Income Tax	1,000.00	1,000.00	
0059	Income Tax	1,000.00	1,000.00	
0060	Income Tax	1,000.00	1,000.00	
0061	Income Tax	1,000.00	1,000.00	
0062	Income Tax	1,000.00	1,000.00	
0063	Income Tax	1,000.00	1,000.00	
0064	Income Tax	1,000.00	1,000.00	
0065	Income Tax	1,000.00	1,000.00	
0066	Income Tax	1,000.00	1,000.00	
0067	Income Tax	1,000.00	1,000.00	
0068	Income Tax	1,000.00	1,000.00	
0069	Income Tax	1,000.00	1,000.00	
0070	Income Tax	1,000.00	1,000.00	
0071	Income Tax	1,000.00	1,000.00	
0072	Income Tax	1,000.00	1,000.00	
0073	Income Tax	1,000.00	1,000.00	
0074	Income Tax	1,000.00	1,000.00	
0075	Income Tax	1,000.00	1,000.00	
0076	Income Tax	1,000.00	1,000.00	
0077	Income Tax	1,000.00	1,000.00	
0078	Income Tax	1,000.00	1,000.00	
0079	Income Tax	1,000.00	1,000.00	
0080	Income Tax	1,000.00	1,000.00	
0081	Income Tax	1,000.00	1,000.00	
0082	Income Tax	1,000.00	1,000.00	
0083	Income Tax	1,000.00	1,000.00	
0084	Income Tax	1,000.00	1,000.00	
0085	Income Tax	1,000.00	1,000.00	
0086	Income Tax	1,000.00	1,000.00	
0087	Income Tax	1,000.00	1,000.00	
0088	Income Tax	1,000.00	1,000.00	
0089	Income Tax	1,000.00	1,000.00	
0090	Income Tax	1,000.00	1,000.00	
0091	Income Tax	1,000.00	1,000.00	
0092	Income Tax	1,000.00	1,000.00	
0093	Income Tax	1,000.00	1,000.00	
0094	Income Tax	1,000.00	1,000.00	
0095	Income Tax	1,000.00	1,000.00	
0096	Income Tax	1,000.00	1,000.00	
0097	Income Tax	1,000.00	1,000.00	
0098	Income Tax	1,000.00	1,000.00	
0099	Income Tax	1,000.		

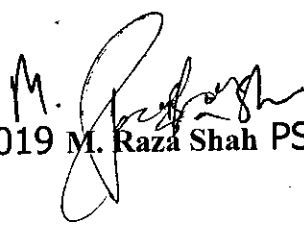
**BEFORE THE DIRECTOR ELEMENTARY AND SECONDARY
EDUCATION KPKPESHAWAR**

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

Respectfully Submitted:-

1. That the appellant is serving as PSHT...at I GPS Afsar Abad and the department in which he is serving is vacation department wherein the conveyance allowance cannot be deducted as per law and rules. Even the deduction of conveyance has been declared illegal by the Service Tribunal in many appeals. The deduction of conveyance allowance as such during summer and winter vacations is illegal and the appellant is entitled to be paid the deducted amount in this respect.

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


Dated:-17-12-2019 M. Raza Shah PSHT GPS Afsar Abad Mardan.

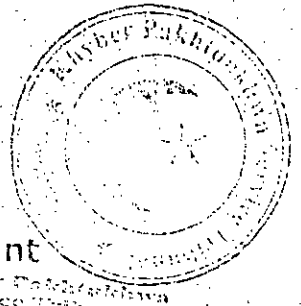
**ATTESTED
TO BE TRUE COPY**

2

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1085 /2016.

Sabz Ali Khan, Associate Professor, BPS-19,
(History cum Civics), Govt. College Peshawar.



Appellant

Khyber Pakhtunkhwa
Service Tribunal

V E R S U S

Diary No. 117

Dated 24-10-2016

1. Chief Secretary, Govt. of KPK Peshawar.
2. Secretary, Higher Education Department, Govt. of KPK Peshawar.
3. Director, Higher Education Department, Govt. of KPK Peshawar.
4. Accountant General, Govt. of KPK Peshawar.

Respondents

5 Secretary Finance Dept KPK Peshawar

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 FOR DIRECTING RESPONDENTS TO PAY THE APPELLANT THE CONVEYANCE ALLOWANCE DURING SUMMER AND WINTER VACATIONS, DECLARING THE DEDUCTION OF CONVEYANCE ALLOWENCE DURING SUMMER AND WINTER VACATIONS, AS ILLEGAL UNLAWFUL, WITHOUT LAWFUL AUTHORITY AND OF NO LEGAL EFFECT, FOR WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT DATED 28-06-2016 HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:-

On acceptance of this appeal the respondents may kindly be directed to pay the appellant the conveyance allowance during the summer and winter vacations declaring the deduction of conveyance allowance during the summer and winter vacations as illegal, unlawful, without lawful authority and of no legal effect.

led to day
10/16

ATTESTED

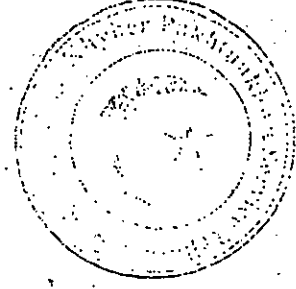
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED
TO BE TRUE COPY

[Signature]
25/10/16

Service Appeal No. 1085/2016

Sabz Ali Khan (Associate Professor)



Vs

1. Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. Secretary Higher Education Department Government of Khyber Pakhtunkhwa Peshawar.
3. Accountant General Khyber Pakhtunkhwa Peshawar.
4. Secretary Finance Department Khyber Pakhtunkhwa Peshawar.

Judgment/Order:

19.02.2020

MUHAMMAD HAMID MUGHAL, MEMBER (J) Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney present.

Arguments heard. File perused.

The appellant has filed the present service appeal against the deduction of conveyance allowance of the government servant/teacher working in school/college during vacations period.

Learned counsel for the appellant stated at the bar that identical nature Service Appeal No.1452/2019 has already been disposed of by this Tribunal vide order dated 11.11.2019. Learned counsel for the appellant stressed that being an identical nature case, the present service appeal may also be disposed of in terms of the said order dated 11.11.2019 passed in Service Appeal No.1452/2019.

Order dated 11.11.2019 of this Tribunal, passed in Service Appeal No.1452/2019 perused. Judgment dated 03.12.2018 passed by learned Federal Service Tribunal in Appeal No.1888(R)CS/2016 and judgment dated 01.10.2019 of the Hon'ble Peshawar High Court Peshawar in Writ Petition No.3162-P/2019 referred to in the order dated 11.11.2019 in Service Appeal No.1452/2019, also gone through and plea taken by the learned counsel for the appellant is found genuine. Consequently the instant service appeal is also disposed of in terms of order dated 11.11.2019 passed in Service Appeal No.1452/2019, with the observation that the judgment of Hon'ble Peshawar High Court passed in writ petitions including Writ Petition 3162-P/2019 shall be honored and implemented by the respondents within shortest possible time.

ATTESTED
TO BE TRUE COPY

2.2.2020

This may also be observed that the judgment of Federal Service Tribunal in Appeal No.1888(R) CS/2016 reflects that in an identical nature case, the Federal Service Tribunal has held that the conveyance allowance is payable to the appellants w.c.f the vacations of the year when the departmental appeal/representation was filed by the appellants.

File be consigned to the record room.

(Mian Muhammad)
Member(E)

(Muhammad Hamid Mughal)
Member(I)

Announced
19.02.2020

Certified to be true copy

Khadija
Secretary
Federal Service Tribunal
Feshwar

21-2-2020
Date of Issue 17-02-2020
Number of Pages 14-07
Copies 14-07
Total
Date of Receipt 12-3-2020
Date of Delivery 12-3-2020

ATTESTED
TO BE TRUE COPY

-9-
-8-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



APPEAL NO. 1452 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1500

Dated 24/10/2019

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

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day

Registrar

24/10/19

R/SHEWETH:

ON FACTS:

- 1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency and up to the entire satisfaction of the superiors.
- 2- That the Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

RECOMMENDED TO DAY

RECORDED TO DAY

ATTESTED
TO BE TRUE COPY

Appeal No. 1452/2019
Marbad Hayat vs Govt



-10-

11.11.2019

Counsel for the appellant present.

Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.

Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal..

The record suggests that while handing down judgment in the Writ Petition preferred by the appellant, the Honourable High Court not only expounded the definition of "Pay" as well as "Salary" but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.

In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ Petitions including W.P. No. 3162-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a reasonable time.

File be consigned to the record.

Date of Presentation of Judgment for _____ Chairman

ANNOUNCED	Number of Words	800
11.11.2019	Copying Fee	10 -
	Urgent	4 -
	Total	14 -

Certified to be true copy

[Signature]

Member
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

[Signature]

Member
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED
TO BE TRUE COPY

VAKALATNAMA

IN THE COURT OF KP SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2020.

M. Raza Shah.

.....Appellant

VERSUS

Director and others

..... Respondents

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

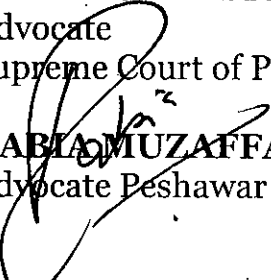
1. To draft and sign files at necessary pleadings, applications, objections, affidavits or other documents as shall be deemed necessary and advisable for the prosecution of the said matter at all its stages.
2. To employ any other Legal Practitioner, authorizing him to exercise the power as conferred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

AND I/We hereby agree to ratify whatever the Advocate or his substitute shall do in the above matter. I/We also hereby agree not to hold the Advocate or his substitute responsible for the result of the said matter in consequence of his absence from the Court when the said matter is called up for hearing. I/We further hereby agree that in the event for the whole or any part of the fee to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the above matter. Received by me on 24-03-2020.

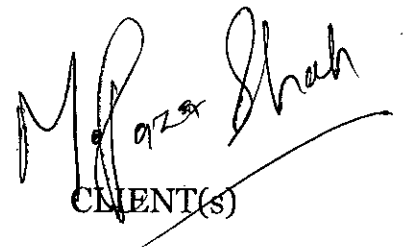
ACCEPTED BY:


FAZAL SHAH MOHMAND

Advocate
Supreme Court of Pakistan


RABIA MUZAFFAR

Advocate Peshawar


CLIENT(S)

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

Email: - FazalShahMohmand@gmail.com.