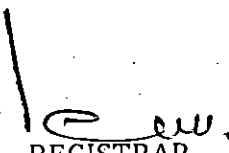



Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 14884 /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>
2-	01.03.2021	<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> <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

Syeda Marwa Bukhari

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 judgment	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.

14884
Service Appeal No. _____/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15502

Dated 24/11/2020

Syed Marwa Bukhari, PST (BPS-12),
GGPS Lahor, 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 (Female), 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.

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.

Filed to-day
Registrar
24/11/20

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant is serving in the Elementary and Secondary Education Department as PST (BPS-12) 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
Syeda Marwa Bukhari

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

(ASAD MAHMOOD)
ADVOCATE HIGH COURT

&

(ABDUL WAHID)
ADVOCATE



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD/SC(SR-III)/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, Deptt of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Government 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 Saad Ahmad)
Secretary Finance

Encls: NO. FD/SC(SR-III)/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, Sindh, Balochistan, Finance Department
3. All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa

Ar

(IMTIAZ AYUB)
Additional Secretary (Reg)

MB

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)
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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

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



Personal Information of Mr SYEDA MARWA BUKHARI d/w/s of SYED ASIM BUKHARI

Personnel Number: 00851238 CNIC: 1620177047520 NTN:
Date of Birth: 31.03.1997 Entry into Govt. Service: 27.03.2017 Length of Service: 02 Years 06 Months 005 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL TEACHER 80004530-DISTRICT GOVERNMENT KHYBE
DDO Code: SU6133-Government Primary Schools (Female) Lahor Swabi
Payroll Section: 003 GPF Section: 001 Cash Center:
GPF A/C No: Interest Applied: No GPF Balance: 6,660.00
Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 12 Pay Stage: 2

Wage type		Amount	Wage type		Amount
0001	Basic Pay	15,240.00	1000	House Rent Allowance	1,961.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
2211	Adhoc Relief All 2016 10%	1,114.00	2224	Adhoc Relief All 2017 10%	1,524.00
2247	Adhoc Relief All 2018 10%	1,524.00	2264	Adhoc Relief All 2019 10%	1,524.00

Deductions - General

Wage type		Amount	Wage type		Amount
3012	GPF Subscription	-2,220.00	3501	Benevolent Fund	-600.00
3534	R. Ben & Death Comp Fresh	-600.00	3990	Emp.Edu. Fund KPK	-125.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable: 0.00 Recovered till SEP-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 27,243.00 Deductions: (Rs.): -3,545.00 Net Pay: (Rs.): 23,698.00

Payee Name: SYEDA MARWA BUKHARI
Account Number: 0909780471002505
Bank Details: MCB BANK LIMITED, 240169 LAHORE RAPORE LAHORE RAPORE,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: SWABI Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
Temp. Address: City: Email: syedamarwabukhari@gmail.com

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

47



Personal Information of Mr SYEDA MARWA BUKHARI d/w/s of SYED ASIM BUKHARI

Personnel Number: 00851238 CNIC: 1620177047520 NTN:
Date of Birth: 31.03.1997 Entry into Govt. Service: 27.03.2017 Length-of Service: 02 Years 05 Months 006 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL TEACHER 80004530-DISTRICT GOVERNMENT KHYBE

DDO Code: SU6133-Government Primary Schools (Female) Lahor Swabi

Payroll Section: 003 GPF Section: 001 Cash Center:

GPF A/C No: Interest Applied: No GPF Balance: 4,440.00

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 12 Pay Stage: 2

Wage type		Amount	Wage type		Amount
0001	Basic Pay	15,240.00	1000	House Rent Allowance	1,961.00
1300	Medical Allowance	1,500.00	2211	Adhoc Relief All 2016 10%	1,114.00
2224	Adhoc Relief All 2017 10%	1,524.00	2247	Adhoc Relief All 2018 10%	1,524.00
2264	Adhoc Relief All 2019 10%	1,524.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3012	GPF Subscription	-2,220.00	3501	Benevolent Fund	-600.00
3534	R. Ben & Death Comp Fresh	-600.00	3990	Emp.Edu. Fund KPK	-125.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable: 0.00 Recovered till AUG-2019: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 24,387.00 Deductions: (Rs.): -3,545.00 Net Pay: (Rs.): 20,842.00

Payee Name: SYEDA MARWA BUKHARI

Account Number: 0909780471002505

Bank Details: MCB BANK LIMITED, 240169 LAHORE RAPORE LAHORE RAPORE,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: SWABI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: syedamarwabukhari@gmail.com

ATTESTED

To,

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

208

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 PST (BPS-12) quit 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 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. 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 Maqsad Hayat vs Education Department. **Copy attached.** I also the similar employee of education department and under the principle of consistency I am also entitle 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: 06.08.2020

Your's Obediently

Syeda Marwa Bukhari

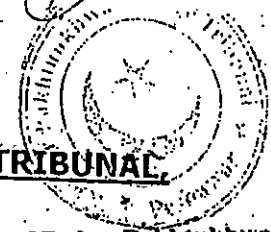
Syeda Marwa Bukhari, PST
GPS Lahor, Distt: Swabi

ATTESTED

[Signature]

E B

G-16 (R)



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

APPEAL NO. 1452 /2019

Khyber Pakhtunkhwa Service Tribunal

Diary No. 1500

Dated 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.

ATTESTED
 BY
 REGISTRAR
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

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

Re-submitted to-day
 Registrar
 11/11/19

CP

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.

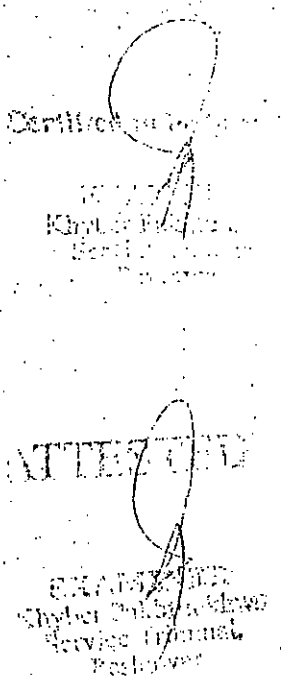

Chairman

ATTESTED

ANNOUNCED

11.11.2019




FEDERAL SERVICE TRIBUNAL
PESHAWAR

(11)



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1636/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1765

Dated 11/13/2020

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.

Filed to-day
11/3/2020
Registrar

Certified to be true copy


Khyber Pakhtunkhwa Service Tribunal

(19)



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

JA

ANNOUNCED
06.07.2020

Certified to be true copy

[Signature]

[Signature]
Member (J)