# Form- A FORM OF ORDER SHEET

·.	Case No	6269 /2021
S.No	Date of order proceedings	Order or other proceedings with signature of judge
1	. 2	3
1-	15/06/2021	The appeal presented today by Mr. Noor Muhammad Khatta Advocate may be entered in the Institution Register and put to the Worth
,		Chairman for proper order please:
		proper order predict.
		REGISTRAR ,
2		This case is entrusted to S. Bench for preliminary hearing to be put
		up there on 18-6-2021. (2000)
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		CHAIRMAN
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# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO	_/2021
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**MOHIB UR REHMAN** 

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	***************************************	10.

#### **APPELLANT**

THROUGH:

NOOR MUHAMMAD KHATTAK

ADVOCATE
OFFICE: Flat No.4, 2<sup>nd</sup> Floor,
Juma Khan Plaza,
Near FATA Secretariat,
Warsak Road, Peshawar.
0345-9383141

Note: Sir,

Spare copies will be submitted After Admission of the case.

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

**PESHAWAR** 

APPEAL NO. 6 19 2021

Khyber Pakhtukhwa Service Tribunal

Shary No. 0 5 705

Mr. MOHIB UR REHMAN, PST (BPS-12), GPS BANDA PABBI, District Nowshera....

.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 of (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 THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

#### **PRAYER:**

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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 & Secondary Education Department as PST (BPS-12) quite efficiently and up to the entire satisfaction of their superiors.
- 2- That the Conveyance Allowance is admissible to all the Civil Servants and to this effect a Notification No. FD (PRC)1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees working in BPS 1 to 15 were enhance/revised while employees from

- 5- That appellant also filed Departmental appeal before the appellate for redressal of his grievances in light of the principle of consistency but no reply has been received from the quarter concerned. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure......E.

#### **GROUNDS:**

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- 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, 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

MOHIB UR REHMAN

THROUGH:

NOOR MOHAMMAD KHATTAK

MIR ZAMAN SAFI ADVOCATES

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

MUHIB UR REHMAN VS EDUCATION DEPTT: & OTHERS

#### **AFFIDAVIT**

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.

DEPONENT

## **CERTIFICATE:**

سمع چنانج

> Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

# GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGUALTION 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.

- All administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
- 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. Al. Political Agents/District & Session Judge in Khyber Pakhtunkhwa.
- 9. Tr. 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/-
<u> </u>	11-15	Rs. 2,000/-	Rs. 2,720/-
4.	16-19	Rs. 5.000/-	Rs. 5,000/-

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





## ERNMENT OF KHYBERT AKHTUNKHWA FINANCE DEPARTMENT (REGULATION WITH G)

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REVISION IN THE PATE OF CONVEYANCE ALLOWANCE FOR TH CIVIL EMPLOYEES OF THE KHYBER PEKHTUNKHWA PROVINCIAL SOVERNMENT BPS1 =12

Dear Sir.

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



#### Personal Information of Mr MOHIB UR REHMAN d/w/s of

Personnel Number: 00134126

CNIC: 99990940147

Date of Birth: 10.10.1969

Entry into Govt. Service: 10.09.1989

NTN:

Length of Service: 29 Years 11 Months 023 Days

**Employment Category: Active Permanent** 

Designation: SENIOR PRIMARY SCHOOL TEA

80719383-DISTRICT GOVERNMENT KHYBE

Payroll Section: 001

DDO Code: NR6344-Tehsil Pabbi Nowshera

GPF Section: 001

Cash Center: 18

GPF A/C No: EDU 038855

Interest Applied: Yes

GPF Balance:

558,435.00

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 I	Basic Pay	36,240.00	1000	House Rent Allowance	2,214.00
1300 N	Medical Allowance	1,500.00	2148	15% Adhoc Relief All-2013	775.00
2199 <i>A</i>	Adhoc Relief Allow @10%	519.00	2211	Adhoc Relief All 2016 10%	2,634.00
2224 /	Adhoc Relief All 2017 10%	3,624.00	2247	Adhoc Relief All 2018 10%	3,624.00
2264 <i>A</i>	Adhoc Relief All 2019 10%	3,624,00			0.00

#### **Deductions - General**

Wage type		Amount		Wage type	Amount
3014	GPF Subscription	-2,620.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-136.00		Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-1,052.00			0.00

#### **Deductions - Loans and Advances**

Toom Description	<b>-</b>		
Loan Description	Principal amount	Deduction	Dalamas
	/ XIMCIPAL HIIIVOIL	Deagerron	Balance

**Deductions - Income Tax** 

Payable:

2,709.55

Recovered till AUG-2019:

272.00

Exempted: 1083.25

Recoverable:

1,354.30

Gross Pay (Rs.):

54,754.00

Deductions: (Rs.):

-4,533.00

Net Pay: (Rs.):

50,221.00

Payee Name: MOHIB UR REHMAN

Account Number: 4321192545

Bank Details: NATIONAL BANK OF PAKISTAN, 230572 PABBI PABBI Nowshera, Nowshera

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: SDEO M NOWSHERA PESHAWAR

City: NOWSHERA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address: City:

Email: mohiburrehman6066@gmail.com

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\* All amounts are in Pak Rupees

\* Errors & omissions excepted



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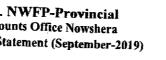
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#### Dist. Govt. NWFP-Provincial District Accounts Office Nowshera Monthly Salary Statement (September-2019)





Personnel Number: 00134126

CNIC: 99990940147

Date of Birth: 10.10.1969

Entry into Govt. Service: 10.09.1989.

NTN:

Length of Service: 30 Years 00 Months 022 Days

**Employment Category: Active Permanent** 

Designation: SENIOR PRIMARY SCHOOL TEA

80719383-DISTRICT GOVERNMENT KHYBE

DDO Code: NR6344-Tehsil Pabbi Nowshera Payroll Section: 001

GPF Section: 001

Cash Center: 18

GPF A/C No: EDU 038855

Interest Applied: Yes

GPF Balance:

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Vendor Number: -Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 14

Pay Stage: 18

Wage type	Amount	Wage type	
0001 Basic Pay	36,240.00	1000 House Rent Allowance	Amount
1210 Convey Allowance 2005	2,856.00	1300 Medical Allowance	2,214.00
2148 15% Adhoc Relief All-2013	775.00	2199 Adhoc Relief Allow @10%	1,500.00
2211 Adhoc Relief All 2016 10%	2,634.00	2224 Adhoc Relief All 2017 10%	519.00
2247 Adhoc Relief All 2018 10%	3,624,00	2264 Adhoc Relief All 2019 10%	3,624.00
		12204   Admoc Renet All 2019 10%	3,624.00

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3609 Income Tax		3990 Emp.Edu. Fund KPK	-600.00
4004 R. Benefits & Death Comp:	-600,00	2370 Emp.Edd, I und KT K	-125.00
	-000.00	<u> </u>	0.00

#### Deductions - Loans and Advances.

Toom				
Loan	L Description	Principal amount	D 1	
		1 11mcipai amount	Deduction	Balance

Deductions - Income Tax

Payable:

4,137.55

Recovered till SEP-2019:

494.00

Exempted: 1654.01

Recoverable:

1,989.54

Gross Pay (Rs.):

57,610.00

Deductions: (Rs.):

-4,167.00

Net Pay: (Rs.):

53,443.00

Payee Name: MOHIB UR REHMAN

Account Number: 4321192545

Bank Details: NATIONAL BANK OF PAKISTAN, 230572 PABBI PABBI Nowshera, Nowshera

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: SDEO M NOWSHERA PESHAWAR

City: NOWSHERA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: mohiburrehman6066@gmail.com

System generated document in accordance with APPM 4.6.12.9 (SERVICES/27.09.2019/16:30:09/v1.1)

\* All amounts are in Pak Rupees

\* Errors & omissions excepted

#### Monthly Salary Statement (Sept. after-2910) Dirtchet Accounts Office Numbers Dist. Covt. NW SP-Provincial

# Personal Information of Mr MORIE FR REBWAN dawl, of

प्रभव्द क्षा प्रकार १६ वर्ग १४९४ Carlo madadamatas Per unail Number (M134126)

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBLE PESHAWAR

APPEAL NO. 1452 /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 UDNER 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'S 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:

# ATTESTON FACTS:

c)ce Tribunal. Deshawar

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 ion vide revised Notification dated 20:12.2012 whereby the conveyance allowance for employees

11.11.2019

Appeal No. 1452/2019 Markad Hayat vs Gort



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.

<u>ANNOUNCED</u>

ExhibitieR

Khyber Pakhtunkhwa

Kanvice Thounal

THE SERVICE

To,

The Director, (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 &

E-9

**SUMMER VACATIONS** 

Respected Sir.

With due respect it is stated that I am the employee of your good self Department and is serving as PST (BPS-12) quite efficiency and up to the entire satisfaction of the superiors. It is stated for kind information that Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. Later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees working in BPS 1 to 15 were enhance/revised while employees from BPS-16 to 19 have been treated under the. previous Notification by not enhancing their conveyance allowance. Respected Sir, I was receiving the conveyance allowance as admissible under the law and rules but the concerned authority without any valid and justifiable reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period. One of the employee of Education Department in Islamabad filed service appeal No.1888 (R) CS/2016 before the Federal Service Tribunal, Islamabad regarding conveyance allowance which was accepted by the Honorable Service Tribunal vide its judgment dated 03,12,2018. That I also the similar employee of Education Department and under the principle of consistency I am also entitled for the same treatment meted out in the above mentioned service appeal but the concerned authority is not willing to issue/grant the same conveyance allowance which is granting to other employees. Copy attached. I am feeling aggrieved from the action of the concerned authority regarding deduction of conveyance allowance in vacations period/months preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during the winter & summer vacations.

Dated: 24-2-2021

Your Obediently

MOHAB UR REHMAN, PST GPS BANDA PABBI DISTRICT NOWSHERA

ATTED

#### **VAKALATNAMA**

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

	OF 2021
MOHIB UR REHMAN	(APPELLANT)(PLAINTIFF) (PETITIONER)
<u>V</u> !	<u>ERSUS</u>
Education Department	(RESPONDENT) (DEFENDANT)
I/We_ MOHIB UR REHMAN	
refer to arbitration for me/us as noted matter, without any liability engage/appoint any other Advo authorize the said Advocate to de	, plead, act, compromise, withdraw or my/our Counsel/Advocate in the above for his default and with the authority to cate Counsel on my/our cost. I/we eposit, withdraw and receive on my/our able or deposited on my/our account in
Dated//2021	
	Muld arflach CLIENT

KAMRAN KHAN ADVOCATES

OFFICE:

Flat No.4, 2<sup>nd</sup> Floor, Juma Khan Plaza, Near FATA Secretariat, Warsak Road, Peshawar. Mobile No.0345-9383141