# Form-A.

# FORM OF ORDER SHEET

The appeal presented today by Mr. Noor Muhammad Kh Advocate may be entered in the Institution Register and put to the W. Chairman for proper order please:  REGISTRAR  This case is entrusted to S. Bench for preliminary hearing to be up there on 18-6-2021. CHAIRMAN  CHAIRMAN	S.No.	Date of order proceedings	Order or other proceedings with signature of judge
This case is entrusted to S. Bench for preliminary hearing to be up there on 18-6-2021 CHAIRMAN	1	. 2	3
This case is entrusted to S. Bench for preliminary hearing to be up there on 18-6-2021  CHAIRMAN	1-	15/06/2021	The appeal presented today by Mr. Noor Muhammad Khati Advocate may be entered in the Institution Register and but to the last
This case is entrusted to S. Bench for preliminary hearing to be up there on 18-6-2021. Case with appeal no.12889/2020  CHAIRMAN		•	Chairman for proper order please:
This case is entrusted to S. Bench for preliminary hearing to be up there on 18-6-2021. Case with appeal no.12889/2020  CHAIRMAN	٠.	•	
CHAIRMAN	-		
CHAIRMAN	•.		up there on 18-6-2021 (See 18 of Case with appeal no.12889/2023)
			CHAIRMAN
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# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO	/2021
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**QAISER KHAN** 

**VS** 

**EDUCATION DEPTT:** 

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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. 6278/2021

Khyber Paliffickhwa Service Tribunal

Diary No. 65.70

Mr. Qaiser Khan, Lecturer (BPS-17), Government College No.2, District Mardan.

**APPELLANT** 

### **VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary, Higher Education, Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director of Higher Education 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:**

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 Higher Education Department as Lecturer (BPS-17) 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



- 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:**

- 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

- 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** 

OAISER KHAN

THROUGH:

NOOR MOHAMMAD KHAJTAK

MIR ZAMAN SAFI ADVOCATES

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

QAISAR KHAN 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:**

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

CERTIFICATION

# 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.
- The Secretary to Governor, Khyber Pakhtunkhwa.
- 4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
- The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
- All Heads of attached Departments in Khyber Pakhtunkhwa.
- All District Coordination Officers of Khyber Pakhtunkhwa.
- S. Al: 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 un-

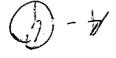
S.No. BPS	F	
3 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Existing Rate (PM)	Revised Rate (PM).
1 14	Rs. 1,500/-	Rs. 1,700/-
. 2. 5-10	Rs. 1,500/-	<del> </del>
3 11-15	<del></del>	Rs. 1,840/-
	Rs. 2,000/-	Rs. 2,720/-
4 16-19	Rs. 5,000/-	Rs. 5,000/-

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, 201



## · (PREGULATION WING) THERTRAGED SOHAHE OVERNMENT OF KHYBER PAXHTUNKHWA

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SETERAL BLENNES NO. CIVIL' EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL SEVISION IN THE PATE OF CONVEYANCE ALLOWANCE EDR THE

ילצ יוסויויאים יציניבי. אסאפיאבר, ווא כמחיפיאבורני בוומייבייבי וויס בארטובי ווי באיבי אסא באביב או פריביים ווי क <u>असिंह, अनुसारक्य हुई में।</u> लागों ग्रेड्स (टीन्टिव्ह को उन्हेंस्च ले क्रांक्रिक्स) डब्लोशस्त्रतंत्रहर कार्यसन्धं कि SARE ESTACKOR IND RESERVOYS But IIS at SELECITEDS SOMEWILL STACKS WIND TO SERVE SERVEY ्रिक्षिणक ह्या फेल्डक्स्य कड्डव रहता अस्तिक्क्त्रीक्षण क्ष्यीयर के विकासक्रिक्ट वर्गी 1.13 7690

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Yours Faithfully

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Monthly Salary Statement (March-2020)



Personnel Number: 00385285

CNIC: 1610260136363

NTN:

B-5

. 1 of Birth: 08.04.1984

Entry into Govt. Service: 06.08.2012

Length of Service: 07 Years 07 Months 027 Days

**Employment Category: Vocational Temporary** 

Designation: LECTURER

80003339-GOVERNMENT OF KHYBER PAKH

DDO Code: MR4067-PRINCIPAL GOVT.COLLEGE NO.-2 MARDAN

Payroll Section: 003

GPF Section: 001

Cash Center:

GPF A/C No: 385285

Interest Applied: Yes

**GPF** Balance:

333,884.00

Vendor Number: 30266272 - QAISER KHAN LECTURER

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

**BPS: 17** 

Pay Stage: 7

	Wage type	Amount		- Wage type	Amount
0001	Basic Pay	46,470.00	1000	House Rent Allowance	4,433.00
1210	Convey Allowance 2005	5,000.00	1644	Ph.d / M.Phil Allowance	2,500.00
1974	Medical Allowance 2011	1,846.00	2148	15% Adhoc Relief All-2013	920.00
2199	Adhoc Relief Allow @10%	634.00	2211	Adhoc Relief All 2016 10%	3,316.00
2224	Adhoc Relief All 2017 10%	4,647.00	2247	Adhoc Relief All 2018 10%	4,647.00
2265	Adhoc Relief All 2019 05%	2,323.00			0.00

#### **Deductions - General**

	Wage type (	Amount		Wage type	Amount
3017	GPF Subscription	-4,270.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-1,062.00	4004	R. Benefits & Death Comp:	-900.00

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

	<del></del>		<del></del>	·	
Loan		Description	Principal amount	Deduction	Balance

**Deductions - Income Tax** 

Payable:

15,322.88

Recovered till MAR-2020:

8,307,00

Exempted: 3830.51

Recoverable:

3,185.37

Gross Pay (Rs.):

76,736.00

Deductions: (Rs.): -

-7,032.00

Net Pay: (Rs.):

69,704.00

Payee Name: QAISER KHAN Account Number: 220312538

Bank Details: UNITED BANK LIMITED, 210273 CANTT. BRANCH, , MARDAN

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: MARDAN

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: qaisermath84@gmail.com

NTMS D



### Government of Khyber Pakhtunkhwa District Accounts Office Mardan Monthly Salary Statement (August-2018)



#### Personal Information of Mr QAISER KHAN d/w/s of HAYAT KHAN

Personnel Number: 00385285

CNIC: 1610260136363

NTN:

of Birth: 08.04.1984

Entry into Govt. Service: 06.08.2012

Length of Service: 06 Years 00 Months 027 Days

Employment Category: Vocational Temporary

Designation: LECTURER

80003339-GOVERNMENT OF KHYBER PAKH

DDO Code: MR4067-PRINCIPAL GOVT.COLLEGE NO.-2 MARDAN

Payroll Section: 003

GPF Section: 001

Cash Center:

GPF A/C No: 385285

Interest Applied: Yes

**GPF Balance:** 

218,624.00

Vendor Number: 30266272 - QAISER KHAN LECTURER

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

Pay Stage: 5

	Wage type	Amount		Wage type	Amount
0001	Basic Pay	41,870.00	1000	House Rent Allowance	4,433.00
1644	Ph.d / M.Phil Allowance	2,500.00	1974	Medical Allowance 2011	1,846.00
2148	15% Adhoc Relief All-2013	920.00	2199	Adhoc Relief Allow @10%	634.00
2211	Adhoc Relief All 2016 10%	3,316.00	2224	Adhoc Relief All 2017 10%	4,187.00
2247	Adhoc Relief All 2018 10%	4,187.00			0.00

#### **Deductions - General**

	Wage type	Amount	Wage type	Amount
3017	GPF Subscription - Rs4270	-4,270.00	3501 Benevolent Fund	-800.00
3609	Income Tax	-50.00	4004 R. Benefits & Death Comp:	-2,136.00

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

Loan	Description	Principal amount	Deduction	Balance

**Deductions - Income Tax** 

Payable:

1,000.00

Recovered till August-2018:

100.00

Exempted: 400.00

Recoverable:

500.00

Gross Pay (Rs.):

63,893.00

Deductions: (Rs.):

-7,256.00

Net Pay: (Rs.):

56,637.00

Payee Name: QAISER KHAN Account Number: 220312538

Bank Details: UNITED BANK LIMITED, 210273 CANTT. BRANCH, , MARDAN

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: MARDAN

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City: Email: qaisermath84@gmail.com

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# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

<u>PESHAWAR</u>

APREAL 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 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:

ce Tribanal.

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

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.

ANNOUNCE 11.11.2019

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11.11.2019

eshawar

To,

The Secretary, Higher Education 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 Assistant professor (BPS-18) quite efficiency and up to 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: 2412202877

Yours Obediently

QAISER-KHAN, LECTURER
Govt: College No.2,
District Mardan

# **VAKALATNAMA**

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

	OF 2021
Qaiser Khan	(APPELLANT)(PLAINTIFF) (PETITIONER)
VERSUS	
Education Department	(RESPONDENT)(DEFENDANT)
I/We <u>Qaiser Khan</u> Do hereby appoint and constitute <b>NOC Advocate, Peshawar</b> to appear, plead, refer to arbitration for me/us as my/our of noted matter, without any liability for his dengage/appoint any other Advocate Co authorize the said Advocate to deposit, with behalf all sums and amounts payable or determined the above noted matter.	act, compromise, withdraw or Counsel/Advocate in the above efault and with the authority to unsel on my/our cost. I/we thdraw and receive on my/our
Dated/2021	CLIENT
NOOR	ACCEPTED  MOHAMMAD KHATTAK

M-l

MIR ZAMAN SAFI ADVOCATES

OFFICE:

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