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FORM OF ORDER SHEET

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Case No	1916	/202	0
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S.No. Date of order Order or other proceedings with signature of judge proceedings 2 .3 1 The appeal presented today by Mr. Shahzaullah Yousafzai 24/11/2020 1-Advocate may be entered in the Institution Register and put to the Learned Member for proper order please. REGISTRAR This case is entrusted to S. Bench for preliminary hearing to be put up there on 1/3/21 MEMBER(J)

01.03.2021 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.

Reader

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. \_\_\_\_/ 2020

# PARVEEN BEGUM VS EDUCATION DEPARTMENT

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S.NO.	DOCUMENTS	ANNEXURE	PAGE
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6.	Vakalat nama	•••••	10

APPELLANT

# THROUGH: SHAHZULLAH YOUSAFZAI ADVOCATE

Flat no 4, Upper Floor, Juma khan plaza near FATA secretariat, Warsak road, Peshawar 0302-8578851

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Butterburger PESHAWAR

# APPEAL NO. 14916 /2020

Diary No. 15383
Dated 24/11/2020

### 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.

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.

## <u>R/SHEWETH:</u> ON FACTS:

- 1- That the appellant is serving in the elementary and secondary Education Department as senior primary school teacher (BPS-14) quite efficiently and up to the entire satisfaction of his 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 BPS- 16 to 19 have been treated under the previous Notification by

- 4- That some employee of E&SE department approached to this august Tribunal against illegal deduction of conveyance allowance in different service appeal which were allowed by this august Tribunal vide its judgment dated 11.11.2019. Copy of the judgment is attached as annexure......**D**.
- 5- That the appellant filed departmental appeal against the illegal action of deduction of conveyance allowance, but the same has not been responded by respondents within statutory period of ninety days. Copy of departmental appeal is annexed as annexure......**E**.
- 6- That feeling aggrieved from action and inaction of the respondents and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

### **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 governed by Government Servant Revised Leave Rules, 1981 while vacations are always announced by the Government, therefore under the law and Rules the appellant is fully entitle 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 discriminatory hence not tenable in the eye of law.
- 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 is 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.

THROUGH: (

APPELLANT

Parvem Parvin Begum

Shahzullah yousafzai

Kamrań khan advocates

### BETTER COPY PAGE- & L

### 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.

### To:

- 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 Pakhtinkhwa.
- 9. The Registrar Peshawar High Court, Peshawar
- 10. The Chairman Public Service Commission, Khyber Pakhtunkhwa.
- 11. The Chairman, Service Tribunal, Khyber Pakhtunkhwa

## Subject: <u>REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE</u> <u>CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL</u> <u>GOVERNMENT BPS-1-19</u>

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 1<sup>st</sup> 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/-
Ş.	11-15	Rs 2,000/- Rs 2,720/-
4	16-19	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

# GOVERNMENT OF KHYBER PAXHTUNKHWA FINANCE DEPARTMENT

# (REGULATION WING)

## NO. FOISCISR-IN-3-5212212 Dated Perhawar the: 20-12-2012

### The Sparetery to Gove of Knybor Pozhiuniana: Finance Department. Perhawar.

### All Administrative Secondaries to Gove at Kington Battheritista The Senior Member, Board of Reverse. Phyloe Posteunines. The Secretary to Governey Maynes Paulterna The Besterry lo Chail Missier, Khite Pakasinana The Secretary, Francial Andrary, Khider Palateristana אוו אבזלג מי אוזכלובי בירידיבוני וה אתימני באודינאיניים אז היוויה כסשיוה הבירה טוויאירט ארישיי אשלונוויוגריים. A.: Policial Agents - Disniti & Samions Judges in Styder Po<del>blizations</del>

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To:

# REVISION IN THE PATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PARHTUNKHWA, PROVINCIAL OVERNMENT BPS 1-19

The Government of Whyter Publicitation has been platent to enhance ? Dear Sir, revise the rate of Conveyance Allowance admissible to all the Provinces Ovil Servental Cove of Anyber Pernamenue (Norking & EFS-1 to EPS-15) well from 1" Sectember, 2012 of are iclimited rates. However, the conveyance allowance for employees in 575-15 to 685-13

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Yours Faiminity,

Sahibrada Saood Ahmad Sacialary Fazarda

Dated Person ar the 20" Treember, 2007

Endste NO. PD/SOXSR-ID/S-52/2012

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### **Dist. Govt. NWFP-Provincial District Accounts Office Dir at Timargar** Monthly Salary Statement (January-2020)

Sector Sec.

Sec. Sec.





#### Personal Information of Mrs PERVIN BEGUM d/w/s of SAID MUHAMMAD

Personnel Number: 00263657 Date of Birth: 24.01.1974

CNIC: 10974308094 Entry into Govt. Service: 15.11.1994

•	PC	
NTN:	0-0	

Length of Service: 25 Years 02 Months 018 Days

#### **Employment Category: Active Temporary**

Designation: SENIOR PRIMARY SCHOOL TEA DDO Code: DA6324-Dir Lower Payroll Section: 001 GPF Section: 001 GPF A/C No: EDUDR011040 Interest Applied: Yes Vendor Number: -Pay and Allowances: Pay scale: BPS For - 2017

80710978-DISTRICT GOVERNMENT KHYBE

Cash Center:'08 **GPF Balance:** 

552,450.00

Pay Scale Type: Civil Pay Stage: 17 **BPS: 14** 

Wage type		age type Amount Wage type		Wage type	Amount	
0001	Basic Pay	35,070.00	1000	House Rent Allowance	2,214.00	
1300	Medical Allowance	1,500.00	1923	UAA-OTHER 20%(1-15)	1,000.00	
2148	15% Adhoc Relief All-2013	675.00	2199	Adhoc Relief Allow @10%	454.00	
2211	Adhoc Relief All 2016 10%	2,644.00	2224	Adhoc Relief All 2017 10%	3,507.00	
2247	Adhoc Relief All 2018 10%	3,507.00	2264	Adhoc Relief All 2019 10%	3,507.00	

#### **Deductions - General**

Wage type		Amount	Amount Wage type		Amount	
3014	GPF Subscription	-4,395.00	3501	Benevolent Fund	-600.00	
3609	Income Tax	-164.00	3990	Emp.Edu. Fund KPK	-125.00	
4004	R. Benefits & Death Comp:	-600.00			0.00	

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

Loan		Description	Principal amount	Deduction	Balance
Deductions Payable:	- Income Tax 2,780.50	Recovered till JAN-2020;	1,267.00 Exempted:	694.85 Recovera	ble: 818.65
Gross Pay (	Rs.): 54,078	8.00 Deductions: (Rs.):	-5,884.00	Net Pay: (Rs.): 48,	194.00
Account Nu	e: PERVIN BEG umber: CA 1120- ls: ALLIED BAN		BAR DIR D.J.KOBAR DIR.	DIR	
Leaves:	Opening Bal	ance: Availed:	Earned:	Balance:	
Permanent .	Address: VILL K	UMBAR			<u></u>
City: DIR L Temp. Add		Domicile: NW -	Khyber Pakhtunkhwa	Housing Status	: No Official
City:		Email: junidshaid	d@gmail.com		
			• •	<u>.</u>	
		Ski Ski	TEPRTPA		• •

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\* Errors & omissions excepted

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### Dist. Govt. NWFP-Provincial District Accounts Office Dir at Timargar Monthly Salary Statement (March-2020)



### Personal Information of Mrs PERVIN BEGUM d/w/s of SAID MUHAMMAD

Personnel Number: 00263657 Date of Birth: 24.01.1974

CNIC: 10974308094	
Entry into Govt. Service:	15.11.1994

NTN:

Length of Service: 25 Years 04 Months 018 Days

### Employment Category: Active Temporary

Designation: SENIOR PRIMAR	Y SCHOOL TEA	80710978-DISTRICT G	OVERNME	NT KHYBE
DDO Code: DA6324-Dir Lower	· · · ·	-		
Payroll Section: 001	GPF Section: 001	Cash Center: 08	:	
GPF A/C No: EDUDR011040	Interest Applied: Yes	GPF Balance:	· •	561,240.00
Vendor Number: -				
Pay and Allowances:	Pay scale: BPS For - 2017	Pay Scale Type: Civil	BPS: 14	Pay Stage: 17
•	-			

Wage type		Amount		Wage type	Amount	
0001	Basic Pay	35,070.00	1000	House Rent Allowance	2,214.00	
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00	
1923	UAA-OTHER 20%(1-15)	1,000.00	2148	15% Adhoc Relief All-2013	675.00	
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2224	Adhoc Relief All 2017 10%	3,507.00	2247	Adhoc Relief All 2018 10%	3,507.00	
2264	Adhoc Relief All 2019 10%	3,507.00			0.00	

#### **Deductions - General**

Wage type		Amount	Wage type	Amount
3014	GPF Subscription	-4,395.00	3501 Benevolent Fund	-600.00
3609	Income Tax	-271.00	3990 Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-600.00		0.00

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

Loan		Descri	ption	Principal amou	nt Deduction	Balance
Deductions -	ไทะอ์กิด	e Tax		-	· ·	
Payable:	3,351.1	70 Recovere	d till MAR-2020:	1,702.00 Exem	pted: 837.63 Recover	erable: 812.07
Gross Pay (R	ls.):	56,934.00	Deductions: (Rs.):	-5,991.00	Net Pay: (Rs.): 5	i0,9 <sup>'</sup> 43.00
Payee Name:						
Account Nun		-				
Bank Details	: ALLI	ED BANK LIMIT	ED, 250849 D.J.KOBA	AR DIR D.J.KOBAR	DIR, DIR	-
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APPELLAN

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

# APPEAL NO. 1452 /2019

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

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 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 Fledte-daypreviously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in

Registrar favor of the appellant. 24/10/19

R/SHEWETH: ATTES TON FACTS:

engice Tribunal.

1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency Killing Paking 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 The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

Subject:

DEPARTM ACTION	OF THE	PPEAL AG CONCER		<u>THE</u> AUTH(	<u>IMPUG</u> )rity	<u>NE</u> R'
ILLEGALI	LY AND	UNLAWFU		EDUC		TH
CONVEYA	NCE AL	LOWANCE	DURIN		/INTER	<u></u>

### Respected Sir,

With due respect it is stated that I am the employee of your good self Department and was serving as SPST (BPS- 14) quite efficiency and up to the satisfaction of the superiors. It is stated for kind information that entire 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 am 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.

Your Obediently

Parvin Begum SPST, GGPS Bandai Maidan, Dir Lower.

Dated: .01.08.2020

## VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

\_ OF 2020

ACCEPTED SHAHZULLAH YOUSAFZAI &

ADVOCATES

AVEEN

(APPELLANT) \_(PLAINTIFF) (PETITIONER)

# **VERSUS**

# EDUCATION DEPTT:

(RESPONDENT) \_(DEFENDANT)

I/We <u>parvem Begum</u> Do hereby appoint and constitute **SHAHZULLAH YOUSAFZAI, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / /2020 CLIENT(S)