Form- A FORM OF ORDER SHEET

Court of					
			1	:	7 T. T.
Case No	147	93	/2	2020	20

· .	Case No	/1// /2020 00
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/11/2020	The appeal presented today by Mr. Shahid Hussain Advoca
•		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 p
		up there on 1.3.3021
		MEMBER(J)
		이 시청화학자 이 그는 사이 나는 하고 밝혔다.
02.	03.2021	Due to general strike on the call of Khyber
02.	03.2021	
02.	03.2021	Pakhtunkhwa Bar Counsel, learned counsel for
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Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Service	Appeal	No	 /2020

RIASAT SHAH VS EDUCATION DEPTT:

INDEX

S.N	Descriptions of Documents	Annexure	Page
1.	Memo of appeal		1-3
2.	Copy of Notification dated	Α	4
3.	Copy of the salary slips of working/Serving month and vacation (deduction period)	B&C	5-6
4.	Copy of Departmental Appeal	D	. 7
5.	Service Tribunal Judgment	E	8-9
6.	Wakalat Nama		10
	·		

APPELLANT

THROUGH:

SHAHID HUSSAIN

ADVOCATE HIGH COURT

CELL NO 03003959446

Note:

Sir,

Spare Copies will be submitted

After submission of the case.

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Service Appeal No	14793	/2020
ooi vioo / (ppodi ito j	<u> </u>	

Mr. RIASAT SHAH, Subject Specialist(BPS-17)
GHSS MANDANI, CHARSADDA

Khyber Pakhtukhwa Service Tribunal
Diary No. 153220
Dated 23/11/202

..... 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 INACTION OF THE RESPONDENTS BY ILLEGAL AND UNLAWFUL DEDUCTING THE CONVENCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATION AND AGAINST NO ACTION TAKEN ON THE DEPARTMENT APPEAL OF APPELLANT WITHIN THE STATUORY 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 the winter & summer 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.

RESPECTFULLY SHEWETH:

- That the appellant is serving in the Elementary and Secondary Education department as SS (BPS-17) 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 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.

 Copy of 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 reason stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period (Copy of the salary slips of working/ serving month and Vacation Period are Annex B&C)
- 5. That some of the colleagues of the appellant approached to this August Tribunal in different service appeal which was allowed by this Tribunal vide S.A.No. 1452/2019 judgments dated 11/11/2019 and many others cases.(copy judgments dated 11/11/2019 attached as annexureE
- 6. That where after the appellant waited for the statutory period of ninety days but no reply has been received from the respondents so far. That feeling aggrieved and having no other remedy file the instant service appeal on the following grounds:-

GROUNDS:-

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- a. That the action of the respondents regarding deduction of the conveyance allowance for vacations period/ months is illegal against the law, facts and 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 respondent is without any legal authority discriminatory and clear violation of fundamental rights duly conferred by the Constitution and is liable to declared is null and void.

- d. That there is cleared difference between leave and vacation as leave is applied by the civil servant in the light Government servant revised leave rules 1989 while the vacation are always announced by the government, therefore under the law and rules the appellant fully entitled for the grant of conveyance during vacation period.
- e. That the Government Servant revised leave rules 1989 clearly explained that the civil servant who avail the vacation are allowed only one leave in a month where is the other civil servant may avail 4 days leave in colander months and the same are credit to his account in this way he may to earned leave with fully pay, where is government servants to avail vacations such is appellant is allowed one day leave in a month and 12 days in a year and earned leave for 12 days in a year for credit to his account and there is no question of deduction of conveyance allowance. The respondent illegally and without any authority started the recovery and deduction of conveyance allowance from the appellant.
- f. That is the act of the respondent is illegal, unconstitutional, without any legal authority and not only discriminatory but the result of Malafiede on the part of respondents.
- g. That appellant has vested right of equal treatment before law and the act of the respondents to deprived the appellant from the conveyance allowance is unconstitutional and clear violation of fundamental right.
- h. That according to government servant revised leave rules 1989 vacations or holly days are not leave of any kind, therefore the deduction of conveyance allowance in vacation is against the law and rules.
- i. That according 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 individual including person in the service of federation therefore in the light the said article the appellant is fully entitled for the grant of fully conveyance allowance during vacations.
- j. That the appellant seeks permission of this honorable to raise any other grounds at the time arguments.

It is therefore, most humbly prayed the appeal of the appellant may be accepted as prayed for.

APPELLANT

RIASAT SHAH (SS),

THROUGH:

SHAHID HUSSAIN

ADVOCATE HIGH COURT.



GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO. FD/S/0(SR-II)/8-52/2012 Dated Peshawar the: 20-12-2012

From.

The Secretary to Govi, of Khyber Pakhtunkhwa, Finance Department,

Paghawar.

To:

All Administrative Sectoraries to Cov: of Kinyber Pakinturikhwa

The Server Member, Board of Revenue, Khyber Pakhtundwaa

The Secretary to Governor Knyber Pakisturiuswa

The Secretary to Chief Mineter, Knyber Pakhlunkinag

5 The Secretary, Provincial Asicembly Khyber Pakhlurkhwa

All Heads of Allached Depulvishers in Knyher Pakhaunkawa Al- Olstrict Coordination Olicerous Knyper Pakittunknya

57E Ab Political Agents / District & Sevolons Judges in Knyber Pasikunkhyeb

The Registral Pashawar High Coopt, Poshawar

The Chairman, Public Service Contropsion, Khyber Pokhtunkhwa

The Charman Services Tribunit Knyou: Palinterkova

Subject

REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL GOVERNMENT BPS 1-19

Doar Si

The Government of Khyber Pakhturáhara has been pleased to enhance / revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants, Govt: of Kryber Pakheenkhwa (working in BPS-1 to BPS-15) w.e.f from 1° September, 2012 at the following rates. However, the conveyance allowence for employees in 6PS-16 to 6PS-19 will remain unchanged.

S.NO BPS	EXISTING RATE (PM)	REVISED RATE (PM)
<u>l.</u> 1-4	R\$.1,500/-	Rs.1,700/-
<u>2.</u> 5-10	Rs. i , 500/-	Rs.1,840/-
<u> 3. 11-15</u>	Rs.2,000/-	Rs.2,720/-
4. <u>16-19</u>	Rs.5,000/-	R\$.5,000/-

Conveyance Allowance at the above rates per monds shall be admissible to those SPS-17, 18 and 19 officers who have not seen sanctioned official vehicles

Yours Fashfully

(Sahibzada Saced Ahmad) Secretary Finance

Ends:: NO. POSCHSR-113/8-32/2012

Dated Peshawar the 20th Therember, 2017

A Copy is forwarded for information to the:-

Additionation: General Kristier Pakintenahera, Pesindarer

Secretaries to Government of Punjacy Sman & Soborveran France Department

All Autonomous / Serni Autonomous Bodies in Kayosi Pakhtunkhino

31-12-(BUYA SAITME)

Additional Secretary (Res.)



GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT

(REGULATION WING)

NO FOUSO(SR HIPS STUDGED Dated Peshawar the 20-12-7012

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Finance Decembers

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To:

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Syberia

REVISION IN THE RATE OF LONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYLES OF THE KHYBER PARMIUNKHWA PROVINCIAL GOVERNMENT BPS 1 19

The Universiment of Whyther Pakhtenioned has been pleased to enflance / revise the rate of Conveyance Allowance admissable to all the Provincial Unit Servantial Gold of timber Paynounthing (working in BPS+) to RES-15) wiell from 1° September 2012 at the following rates. However, the concevar or allowance for encologies in BPS-16 to BPS-13 will remain or hungest

S.HO	BPS	EXISTING RATE (PM)	REVISED RATE (PH)
ì	1-4	Ps 1,500	Rs 1,700/-
	5-10	ચ્ક્ર , 500	Rs.1.840/-
3.	11-15	PS. 2,000	Rs.2,720/-
	16-19	Ps 5,600/-	P.s. 5,000/-

2 Conveyance Albowards of the above rates per minth small be admissible to these SHS 11, 18 and 19 officers who have not received a minimum of the control o

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Ennsc NO 148 80/53/ He5/32 1012

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District Accounts Office Charsadda Monthly Salary Statement (August-2020)

Personal Information of Mr RIASAT SHAH d/w/s of HAYA KHAN

Personnel Number: 00109858 . CNIC: 1710211583417

Date of Birtli: 01.05.1971

Entry into Govt. Service: 12.11.1995

NTN:

Length of Service: 24 Years 09 Months 021 Days

Employment Category: Vocational Temporary

Designation: SUBJECT SPECIALIST

80001066-DISTRICT GOVERNMENT KHYBE

DDO Code: CA6046-HEAD MASTER GOVERNMENT HIGH SCHOOL MANDANI CHARSADDA

Payroll Section: 001 .

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

682,544.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 17

August-2020

Pay Stage: 13

Wage type	Wage type Amount Wage type		Amount
0001 Basic Pay	60,270.00	1000 House Rent Allowance	4,433.00
1210 Convey Allowance 2005	5,000.00	1560 Science Teaching Allowan	200.00
1947 Medical Allow 15% (16-22)	1,929.00	2148 15% Adhoc Relief All-2013	1,160.00
2199 Adhoc Relief Allow @10%	789.00	2211 Adhoc Relief All 2016 10%	
2224 Adhoc Relief All 2017 10%	6,027.00	2247 Adhoc Relief All 2018 10%	4,088.00
2265 Adhoc Relief All 2019 05%	3,013.00	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	6,027.00

Deductions - General

Wage type	Amount	Wage type	Amount
3017 GPF Subscription	-4,270.00	3501 Benevolent Fund	-800.00
3609 Income Tax		3990 Emp.Edu. Fund KPK	-250.00
4004 R. Benefits & Death Comp:	-900.00		0.00

Deductions - Loans and Advances

1 -				
Loan	Description	Y3		
	Description	Principal amount	Deduction	Ralanaa
				Balance

Deductions - Income Tax

Payable:

25,761.68

Recovered till AUG-2020:

3,222.00

Exempted: 6439,38

Recoverable:

16,100.30

Gross Pay (Rs.):

92,936.00

Deductions: (Rs.):

-7,831.00

Net Pay: (Rs.):

85,105.00

Payce Name: RIASAT SHAH Account Number: 00999-00-3

Bank Details: THE BANK OF KHYBER, 080078 Umerzai Branch Umerzai Branch, Charsadda

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: 00

Domicile: NW - Khyber Pakhtunkhwa

Temp. Address:

City:

Email: riasatshah345@gmail.com

ousing Status: No Official

System generated document in accordance with APPM 4.6.12.9(SERVICES/28.08.2020/16:56:41/v2.0) All amounts are in Pak Rupees

* Errors & onissions excented

Dist. Govt. NWFP-Provincial District Accounts Office Charsadda Monthly Salary Statement (July-2019)

July-2019



Personal Information of Mr RIASAT SHAH d/w/s of HAYA KHAN

Personnel Number: 00109858

CNIC: 1710211583417

Date of Birth: 01.05.1971

Entry into Govt. Service: 12.11.1995

Length of Service: 23 Years 08 Months 021 Days

Employment Category: Active Temporary.

Designation: SUBJECT SPECIALIST PUSHTO

80001066-DISTRICT GOVERNMENT KHYBE

DDO Code: CA6046-HEAD MASTER GOVERNMENT HIGH SCHOOL MANDANI CHARSADDA

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

551,829.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 17

Pay Stage: 12

Wage type	Amount	Wage type	Amount
0001 Basic Pay	57,970.00	1000 House Rent Allowance	4,433.00
1560 Science Teaching Allowan	200.00	1947 Medical Allow 15% (16-22)	1,929.00
2148 15% Adhoc Relief All-2013	1,160.00	2199 Adhoc Relief Allow @10%	789.00
2211 Adhoc Relief All 2016 10%	4,088.00	2224 Adhoc Relief All 2017 10%	
2247 Adhoc Relief All 2018 10%	5,797.00	2265 Adhoc Relief All 2019 05%	5,797.00 2,898.00

Deductions - General

Wage type Amount Wage type Amount 3017 GPF Subscription - Rs4270 -4,270.00 3501 Benevolent Fund -800.00 3609 Income Tax -1,052.00 3990 Emp.Edu. Fund KPK -250.00 4004 R. Benefits & Death Comp: -900.00 0.00	1							
3017 GPF Subscription - Rs4270	Wage type		Amount	Wage type		Amount		
3609 Income Tax	3017	GPF Subscription - Rs4270	-4,270.00	3501				
4004 R. Benefits & Death Comp:	3609	Income Tax		1				
	4004	R. Benefits & Death Comp:	i	1	Emp. Edd. 1 and KI K	0.00		

Deductions - Loans and Advances

Loan	Description	D. 1 1		
	——————————————————————————————————————	Principal amount	Deduction	Balance
				Dutance

Deductions - Income Tax

Payable:

21,036.69

Recovered till JUL-2019:

1.052.00

Exempted: 8414.45

Recoverable:

11,570.24

Gross Pay (Rs.):

Deductions: (Rs.):

-7,272.00

Net Pay: (Rs.):

77,789.00

Payee Name: RIASAT SHAH Account Number: 00999-00-3

Bank Details: THE BANK OF KHYBER, 080078 Umerzai Branch Umerzai Branch, Charsadda

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: 00

Temp. Address:

City:

Domicile: NW - Khyber Pakhtunkhwa

Email: riasatshah345@gmail.d

Housing Status: No Official

System generated document in accordance with APPM 4.6.12.9 (SERVICES/27.07.2019/16:19:36/v1.1) All amounts are in Pak Rupees

* Errors & omissions excented

To:

D(7)

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

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED

ACTION OF THE CONCERNED AUTHORITY BY THE

ILLEGALLY AND UNLAWFULLY DEDUCTION, 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 SS (BPS-17) 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 effects a notification No. FD (PRC) 1-1-/2011 dated 14/7/2011 was issued. Later on vide revised Notification dated 20/12/2012 whereby the conveyance allowance for the employee working in BPS 1 to 15 were enhance/revised while employee from BPS-16 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance as admissible under the law and rules but the concerned authority without any valid and justified reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for leave period. One of the employees 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 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 similar treatment meted out in the above mentioned service appeal but the concerned authority is not walling to issued/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 it is therefore, most humbly prayed that on acceptance of this Departmental appeal concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during winter & summer vacations.

Dated:04.06.2020

Yours Obediently, Joshan

RIASAT SHAH(SS),

District Charsadda

GHSS MANDANI.

Mil

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TR **PESHAWAR**

APPEAL NO. 1452 /2019

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

APPELLAN

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 UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE DURING WINTER APPELLANT_ VACATIONS AND AGAINST NO ACTION TAKEN ON THE THE_ DEPARTMENTAL APPEAL OF APPELLANT WITHIN 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 redto-day previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be warded in favor of the appellant.

R/SHEWETH:

TESTON FACTS:

MER

ergice Tribanal

27/10/19

-1- That the appellant is serving in the elementary and secondar education department as Certified Teacher (BPS-15) quite efficienc KHILL PAKHONKING and up to the entire satisfaction of the superiors.

eshawar 24 That the Conveyance Allowance is admissible to all the civil servant and to this effect a Notification No. FD (PRC) 1-1/2011 date 14.07.2011 was issued. That later ion vide revised Notification date 20.12.2012 whereby the conveyance allowance for employed

Appeal No. 1452/2019 Markad Hayat vs Gort

JE (3)

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 inconured 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.

Certified in lie ture copy

EATHY LANGUAGE
Chyler Takhiunkhwa
Chyler Takhiunkhwa
Service Tribunal.
Pesbawar
Pesbawar

File be consigned to the record.

ANNOUNCED

11.11.2019



VAKALATNAMA

BEFORE T	HE KHYBER	PAKHTUNKHWA	SERVICE	TRIBUNAL,
		PESHAWAR		

	OF <u>2</u> 020	
RIASAT SHAH	(APPELLAN (PLAINTIFF) (PETITIONEI	·
<u>VERSUS</u>	•	
EDUCATION DEPARTMENT	(RESPONDENT T (DEFENDANT	•

I/We RIASAT SHAH

Do hereby appoint and constitute SHAHID HUSSAIN, Advocate High Court, 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 deposite, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / /2020

CLIENT

SHAHID HUSSAIN ADVOCATE HIGH COURT

Cell Number: 0300-3959446