Form- A FORM OF ORDER SHEET

Court of					
	6	09			
Case No) O	<u> 00 -</u>	/2021		٠,

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1 .	2	3
1	07/06/2021	The appeal presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put to the Worthy
		Chairman for proper order please.
2=		This case is entrusted to S. Bench for preliminary hearing to be put up there on 18/06/21 (2020.)
		CHAIRMAN

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO	/2021
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YOUNAS JAN

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, 2nd 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. <u>\$88</u>8/2021

Service Tribanal

Mr. YOUNAS JAN, CT (BPS-15), GMS HAYAT ABAD, 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 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:

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 CT (BPS-15) 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

- - **3-** That appellant was receiving the conveyance allowances 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 some of colleagues of the appellant approached to this august Tribunal in different service appeals which was allowed by this august Tribunal vide its judgment dated 11.11.2019. Copy of the judgment is attached as annexure.
- 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 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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

YOUSAF JAN 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.

To:

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

Subject: RIVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA. PROVINCIAL 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-

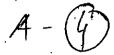
·		10 to DL2-13 Mill.
S.No. BPS		15 WIII
1	Existing Rate (PM)	T
1-4	Rs. 1,500/-	Revised Rate (PM)
2. 5-10		Rs. 1,700/-
3 11.15	Rs. 1,500/-	·
2. 11-15	Rs. 2,000/-	Rs. 1,840/-
	Rs. 5,000/-	Rs. 2,720/-
		Rs. 5,000/-
Onvers- An		1 - 43. 3,000/2

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



ERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT REGULATION

NO FOSCISR-IN-8-5212212 Dated Peshawarths 20-12-2017

From

The Secretary to Governous Patholicance Finance Described Perhawar.

All Administrative Separates to Grant six

All Administrative Services to Got all Kinkon Rakhturshing.
The Secretary locked of Review Phytoerpoliticities.
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Safried, ·

REVISION IN THE PATE OF CONVEYANCE ALLOWANCE COR THE TUIL EMPLOYEES OF THE KHYBER PAKHTUNKHWAS PROVINCIAL ONERNMENT BEST-TO

ପ୍ରଶ୍ୱ ହାଲ

The Government of Knyber Politicalny conditions been predecise enhance vevise the rate of Conveyonce Allewance samissage of all the Armines wall serious With pur Peaneunghora (projette to EPS-1910 (EPS-191) will from it September 1812 at The following rates: However, the conveyance allowance for employees in Starts to Epsage sali remain.

S.NO	BP5	EXISTING!	RATE (PH	}∗⊹₹ E VI	SED RAT	E(PH)
1		1225	\$00/:03		Rs. <u>1</u> .700	7/-
<u></u>	500	14 1951	<u> </u>	erika eri ka ayar Serika da	Rs.1.840)/
3.	11:45. 四水	³	600		RS 2771	5/2
	L6-19: ··	9.5,5	.T00/		Rs.5,000	y= 7 -

विदेश होते शिवार त्रीतिक विदेश कर्ता के वर्ता कर्ता कर्ता है। वर्ता रह वर्ता है वरिता है वर्ता है वर्ता है वर्ता है वर्ता है वर्ता है वर्ता है वर्त those 525-17, 18 and 19 offices who have not been earlithmed efficial vehicles.

Yours Fashiuli

(Sahibaada Sasad Ahmadi) Secretary Factors.

Findste & O. FINSOKSTERMS-52/2012

Dated Personantile In Thereinher War

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Dist. Govt. NWFP-Provincial District Accounts Office Peshawar Dist. Monthly Salary Statement (June-2019)







Personal Information of Mr S YOUNAS JAN d/w/s of S IBRAHIM JAN

Personnel Number: 00048694

Date of Birth: 03.05.1971

CNIC: 1730180794127

Entry into Govt. Service: 21.01.1997

NTN:

Length of Service: 22 Years 05 Months 011 Days

Employment Category: Active Permanent

Designation: CERTIFICATED TEACHER

80004160-DISTRICT GOVERNMENT KHYBE

DDO Code: PW6017-DISTRICT EDUCATION OFFICER (M) PESHAWAR.

Payroll Section: 003

GPF Section: 001

Cash Center:

GPF A/C No: EDU 044478

Interest Applied: Yes

GPF Balance:

414.455.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017 Pay Scale Type: Civil

BPS: 15

Pay Stage: 16

Wage type		Amount	Wage type	Amount
0001	Basic Pay	37,400.00	1210 Convey Allowance 2005	2,856.00
1300	Medical Allowance	1,500.60	1897 Housing Subsidy Allowance	13,958.00
2148	15% Adhoc Relief All-2013	796.00	2199 Adhoc Relief Allow @10%	535.00
2211	Adhoc Relief All 2016 10%	2,742.00	2224 Adhoc Relief All 2017 10%	3,740.00
2247	Adhoc Relief All 2018 10%	3,740.00		0.00

Deductions - General

	Wage type	Amount	Wage type	Amount
3015	GPF Subscription - Rs2890	-2,890.00	3501 Benevolent Fund	-600.00
3609	Income Tax	-50.00	3990 Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-1,052.00	5011 Adj Conveyance Allowance	-1,428.00

Deductions - Loans and Advances

Loan	Description	Principa	Balance

Deductions - Income Tax

Payable:

1,000.00

Recovered till JUN-2019:

600.00

Exempted: 400.00

Recoverable:

0.00

Gross Pay (Rs.):

67,267.00

Deductions: (Rs.):

-6.145.00

Net Pay: (Rs.):

61,122.00

Payee Name: S YOUNAS JAN

Account Number: 4626-8

Bank Details: THE BANK OF KHYBER, 080001 MAIN BRANCH, 24 THE MALL, , PESHAWAR

Leaves:

Opening Balance:.

Earned:

Balance:

Permanent Address:

City: Peshawar

Domicile: NW - Klysig Pakhtunkhwa

Housing Status: No Housing

Temp. Address: City:

Email: syounasian@smail.com

ystem generated document in accordance with APPM 4.6.12.9 (SERVICES/27.06.2019/16:17:12/v1.1) All amounts are in Pak Rupees Errors & omissions excepted



District Accounts Office Peshawar Dist. Monthly Salary Statement (November-2019)





Personal Information of Mr S YOUNAS JAN d/w/s of S IBRAHIM JAN

Personnel Number: 00048694

CNIC: 1730180794127

Date of Birth: 03.05.1971

Entry into Govt. Service: 21.01.1997

NTN:

Length of Service: 22 Years 10 Months 011 Days

Employment Category: Active Permanent

Designation: CERTIFICATED TEACHER

80004160-DISTRICT GOVERNMENT KHYBE

DDO Code: PW6017-DISTRICT EDUCATION OFFICER (M) PESHAWAR.

Payroll Section: 003

GPF Section: 001

Cash Center:

486,098.00

GPF A/C No: EDU 044478

Interest Applied: Yes

GPF Balance:

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 15

Pay Stage: 16

1	Wage type	Amount	Wage type	Amount
0001	Basic Pay	37,400.00	1210 Convey Allowance 2005	2,856,00
1300	Medical Allowance	1,500.00	1897 Housing Subsidy Allowance	13,958.00.
2148	15% Adhoc Relief Aff-2013	796.00	2199 Adhoc Relief Allow (ii) 10%	535.00
2211	Adhoc Relief All 2016 10%	2,742.00	2224 Adhoc Relief All 2017 10%	3,740.00
2247	Adhoc Relief All 2018 10%	3,740.00	2264 Adhoc Relief All 2019 10%	3,740.00

Deductions - General

1	Wage type	Amount		Wage type	Amount
3015	GPF Subscription	-2,890.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-277.00	3990	Emp.Edu. Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-600.00			0.00

Deductions - Loans and Advances

_		1		
Loan	Description	Dringing amount	Doduction	Dalamaa
Luan	Description	Frincipal amount	Deduction	Balance
				

Deductions - Income Tax

Payable:

3,943.75

Recovered till NOV-2019:

1,019.00

Exempted; 985.82

Recoverable:

Gross Pay (Rs.): 71,007.00

Deductions: (Rs.):

-4,492.00

Net Pay: (Rs.):

66,515.00

Payee Name: S YOUNAS JAN

Account Number: 4626-8

Bank Details: THE BANK OF KHYBER, 080001 MAIN BRANCH, 24 THE MALL, , PESHAWAR

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: Peshawar

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Housing

Temp. Address: City:

Email: syounasjan@gmail.com

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRUSHING <u>PESHA</u>WAR

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 OF THE RESPONDENTS BY ILLEGALLY UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER VACATIONS AND AGAINST NO ACTION TAKEN ON 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 Fledto-daypreviously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in Kegistrar favor of the appellant.

R/SHEWETH: TESTON FACTS:

27/10/19-

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.

fresce Tribunal 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

8

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.

ANNOUNCED

11.11.2019

ertified to he ture copy

Khyber Takhtunkhwi Service Tribunal Peshawar 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 & SUMMER VACATIONS

Respected Sir,

With due respect it is stated that I am the employee of your good self Department and is serving as CT (BPS-15) 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 convéyance 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: 25.2-2021

Your Obediently

YOUNAS JAN, CT GMS HAYAT ABAD PESHAWAR, DISTRICT PESHAWAR

MATE

(10)

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

0	F 2021
YOUNAS JAN	(APPELLANT) (PLAINTIFF) (PETITIONER)
<u>VERSUS</u>	(, _ , _ , , , , , , , , , , , , , , , ,
Education Department	(RESPONDENT) (DEFENDANT)
I/We YOUNAS JAN Do hereby appoint and constitute NOOR M Advocate, Peshawar to appear, plead, act, or refer to arbitration for me/us as my/our Couns noted matter, without any liability for his default engage/appoint any other Advocate Counsel authorize the said Advocate to deposit, withdraw behalf all sums and amounts payable or deposit the above noted matter.	compromise, withdraw or el/Advocate in the above and with the authority to on my/our cost. I/we wand receive on my/our
Dated/2021	Lord Lan

NOOR MOHAMMAD KHATTAK

MIR ZAMAN SAFI

AFRASIAB KHAN WAZIR

KAMRAN KHAN ADVOCATES

OFFICE:

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