FORM OF ORDER SHEET

Court of		<u> </u>	
	1 / .	1	
Case No	1066	<i>O</i> /2020	
		· · · · · · · · · · · · · · · · · · ·	

	Date of order	Order or other proceedings with signature of judge
	proceedings	
1	2	3
4	07/12/2020	The appeal presented today by Mr. Kamran Khan Advocate may
1-	07/12/2020	be entered in the Institution Register and put to the Learned Member for
		proper order please.
		REGISTRAR
<u>'</u> -	08-02-21	This case is entrusted to S. Bench for preliminary hearing to be put
		up there on
	•	MEMBER(I)
		:MEMBER(J)
a a · a	h 2224	
0,3.0		The learned Member Judicial Mr. Muhammad Jamal Khar
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)3.0	unde	er transfer, therefore, the case is adjourned. To come up
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO	/2020
	·
VC	EDUCATION DEDTE

INDEX

AMIR ZADA

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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3.	Pay slips	B & C	5- 6.
4.	Departmental appeal	D	7.
5.	Service Tribunal judgment	É	8- 9.
6.	Vakalat nama		10.

APPELLANT

THROUGH:

KAMRAN KHAN ADVOCATE

OFFICE: Flat No.4, 2nd Floor, Juma Khan Plaza, Near FATA Secretariat, Warsak Road, Peshawar. 0344-9118844

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO.<u>/ _____</u>/2020

Khyber Pakhtukhwa Service Tribunal Diary No 6/46

Mr. Amir Zada, SPET (BPS-16), GHS Tazagram, Dir Lower.

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 SPET (BPS-16) 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

7/12/

- 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.

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 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

AMTR 7ADA

THROUGH:

KAMRAN KHAN ADVOCATES BETTER COPY PAGE-st-lpha

GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGUALTION WING)

20)

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:

- 1. 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. Ali 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 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/-
3.	11-15	Rs. 2,000/-	Rs. 2.720/-
4.	16-19	Rs. 5,000/-	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 PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION YTHE)

NO. FCISCISR-MIZE-5212212 Dated Peshawar the: 20-12-2012

The Societary to Gove of Knybor Pachantaires Finance Department. Perhawar.

भी भागमाध्येयक्रिक हैरकेक्स्प्रेस्ट क्र ठिक्य हो प्रीप्तृहेन विस्तर्वक्रिक्स

The Serior Member, Board of Reverse, Physics Payhous free.

المجاهدة والمراجعة المراجعة ال

The Secretary to Chief Missier, Kington Palabethama.

Tar देवदाराज्य है नेनातील संस्थान है। शितृत्व किर्माणक कार्यात करें

All Heads of Ansenes Departments in Knyther Bakmunkmaa

المع المناهج والمحترة المعترضة والمتحرضة والمتحرض والمتحرضة والمتح As Political Agents / District & Samions Judges in Risteer වඩින්සුන්ඩිකම

The Registral Peshabat High Costs, Peshawa

The Chieffier Fedic Service Commedian, Styles Foktochimus.

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REVISION IN THE PATE OF CONVEYANCE ALLOWANCE FOR THE IVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA PROVINCIAL OVERNMENT BPS 1-12

Door St.

The Government of Khyber Politicative has been present to entence ! revise the rate of Conveyance Allowance admissible to all the Provinces Ovil Serionial Gove of Amyber Paschernehous (Modeling in 1993-1 to 1995-15) will from 1° Sacranda, 1912 at the following races. However, the conveyance allowance for employees in 575-15 to 645-19 प्रशास्त्रकार । जनामान · AKUMUCAY.

American American American		
SNO BPS	ECISTING RATE (PH)	REVISED RATE (PM)
1 1 1 4	54 1 500/-	Rs.1.700/-
1	Ps.1,500/-	Rs.1.840/-
5-10	1 352,600	RS. 2.720/-
3. 11-15	Rs,5,000/-	Rs.5,000/-

Conveyance Allowance at the opens rates but mentils shall be admissible to Those SPE-17, 18 and 19 offices who have out been earlithmed efficial vehicles.

Yours Faithfully,

Sahivada Sacod Ahiffadi Sacratary निकास

Endst NO. PDSO(\$R-IT/8-52/2012

Dated Posternan the Total Trecomber, That

A Copy is larwarded for information to their

Accountant General Kingser Pakhtuenless, Paghtyses

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४४ अम्बद्धकार्यकार इस्ति नेपालकात्त्रका हैटर्वास तार्थक्वेट है स्ट्रीक्ट होता है

(INTIAZ AYUB) realimed Sommer Horn

Dist. Govt. NWFP-Provincial District Accounts Office Dir at Timarga

Monthly Salary Statement (June-2020)

onal Information of Mr AMIR ZADA d/w/s of SIDDIQUE

inel Number: 00262471

CNIC: 1530721658537

of Birth: 13.04.1963

Entry into Govt. Service: 16.03.1988

324 exts 03 Months 016 Days Length of

Employment Category: Active Temporary

Designation: SENIOR PHYSICAL EDUCATION

80001533-DISTRICT GOVERNMENT KHYBE

GPF Section: 001

Cash Center:

Interest Applied: Yes

GPF Balance:

1,239,929.00

y and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 16 Pay Stage: 26

Wage type	Amount	Wage type	Amount .
000 i Basic Pay	58,430.00	1000 House Rent Allowance	2,727.00
Wage type 0001 Basic Pay 17210 Convey Allowance 2005 1947 Medical Allow 15% (16-22)	5,000.00	1924 UAA-OTHER 20%(16 G/NG)	1,500.00 報
1947 Medical Allow 15% (16-22)	2,475.00	2148 15% Adhoc Relief All-2013	1,340.00
2 99 Adlioc Relief Allow @10%	892.00	2211 Adhoc Relief All 2016 10%	4,532.00
2224. Adhoc Relief All 2017 10% 2264. Adhoc Relief All 2019 10%	5,843.00	2247 Adhoc Relief All 2018 10%	5,843.00
2264. Adhoc Relief All 2019 10%	5,843.00		0.00

General

Road & Martin Late - 1887-18 - N					5 140 1
Wage type	Amount		Wage type		Amount 😭
3016 GPE Subscription	-3,340.00	3501 Be	enevolent Fund		-800.00 ⁽¹ 7)
3609 Income Tax	-2,290.00	3990 En	np.Edu. Fund KPK	•	-150.00
4004 REBenefits & Death Comp:	-650.00	4200 Pr	ofessional Tax		-1,200.00 🚦

ductions Loans and Advances

	1137 8-4-17111				
à.	Loan 2 112	Description	Principal amount	Deduction	Balance i
ì	法法证规约				4

eductions - Income Tax ayable: 31 | 25,619.70

Recovered till June-2020: 25,620.00 Exempted: 0.30-

Recoverable:

94,425.00

-8,430.00 Deductions: (Rs.):

Net Pay: (Rs.):

85,995.00

oss Pay (Rs.):

AMIR ZADA

ayee Name:

count Number: C/A 2064-1

Bank Details: NATIONAL BANK OF PAKISTAN, 231331 NBP CHAKDARA DIR NBP CHAKDARA DIR,

Opening Balance:

Earned:

Balance:

manent Address: VILL SHAWA

DIRLOWER

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Address:

Email:

Availed:

Dist. Govt. NWFP-Provincial

District Accounts Office Dir at Timargar Monthly Salary Statement (July-2020)

ersonal Information of Mr AMIR ZADA d/w/s of SIDDIQUE

Date of Birth: 13.04.1963

Entry into Govt. Service: 16.03.1988

Length of Service: 32 Years 04 Months 017 Dá

Employment Category: Active Temporary

80001533-DISTRICT GOVERNMENT KHYBE

Designation: SENIOR PHYSICAL EDUCATION

DO Code: DA6233-GHS TAZAGRAM

Payroll Section: 001

GPF Section: 001

GPF A/C No: EDUDA005555

Interest Applied:

GPF Section: 001 Cash Center:

F.A/C.No. EDUDA005555 mdor Number:

Interest Applied: Yes

GPF Balance:

1,243,269.00

y and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 16 Pay Stage: 26

张阳阳江阳阳西 亚			
Wage type	Amount	Wage type	Amount
000 Î Basic Pay	58,430.00	1000 House Rent Allowance	2,727.00
1924 UAA-OTHER 20%(16 G/NG)	1,500.00	1947 Medical Allow 15% (16-22)	2,475.00
2148 15% Adhoc Relief All-2013	1,340.00	2199 Adhoc Relief Allow @10%	892.00
227.1 Adhoc Relief All 2016 10%	4,532.00	2224 Adhoc Relief All 2017 10%	5,843.00
2247 Adhoc Relief All 2018 10%	5,843,00	2264 Adhoc Relief All 2019 10%	5,843.00

ductions General

、United State (Manager 1) 1 man (4 fg ft			' 1 3 M/ E P
Wage type	Amount	Wage type	Amount 🕍
3016 GPF Subscription	-3,340.00	3501 Benevolent Fund	-800.00
3609 Income Tax	-1,972.00	3990 Emp.Edu. Fund KPK	-150.00
4004 R. Benefits & Death Comp.	-650.00		0.00

Loans and Advances

41 47 41 4						_
Loan	De De	escription	Principal amount	Deduction	Balance	7

eductions Income Tax ayable: \$1 23,654.95 ross Pay (Rs.): 89,4

Recovered till July-2020:

1,972.00 Exempted: 0.80Recoverable:

21,683.75

89,425.00

Deductions: (Rs.):

-6,912.00

Net Pay: (Rs.):

82,513.00

ayee Name: AMIR ZADA

ccount Number: C/A 2064-1

Bank Details: NATIONAL BANK OF PAKISTAN, 231331 NBP CHAKDARA DIR NBP CHAKDARA DIR,

aves: Opening Balance:

Availed:

Earned:

Balance:

manent Address: VILL.SHAWA

DIRLOWER

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Email:

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNA **PESHAWAR** APPEAL NO. 1452 /2019 Mr. Maqsad Hayat, SCT (BPS-16), APPELLANT 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.

> 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.

RESPONDENTS

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 Conveyance allowance which have been deducted Fledto-day previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in Registrar favor of the appellant.

R/SHEWETH:

ATTESTON FACTS:

2-11/10/16

ENAMENER

1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency Killing Pakhankhwe and up to the entire satisfaction of the superiors. Peshawar

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



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 Pesnawar 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>ANNOUNCE</u> 11.11.2019

ertified th he ture copy

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

E D

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 SPET (BPS-16) 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: 12.08.2020

Your Obediently

AMIR ZADA, SPET GHS Tazagram, Dir Lower

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

	OF 2020
Amir Zada	(APPELLANT)(PLAINTIFF) (PETITIONER)
<u>v</u>	<u>'ERSUS</u>
<u>Education Department</u>	(RESPONDENT)(DEFENDANT)
arbitration for me/us as my/our matter, without any liability for engage/appoint any other Advo authorize the said Advocate to de	ctitute KAMRAN KHAN, Advocate, ct, compromise, withdraw or refer to Counsel/Advocate in the above noted his default and with the authority to ocate Counsel on my/our cost. I/we eposit, withdraw and receive on my/our able or deposited on my/our account in
	ACCEPTED KAMRAN KHAN
	ADVOCATES

OFFICE:

Flat No.4, 2nd Floor, Juma Khan Plaza, Near FATA Secretariat, Warsak Road, Peshawar. Mobile No.0344-9118844