FORM OF ORDER SHEET

Court of	 . :		• •		
		 		<u> </u>	

S.No. Date of order Order or other proceedings with signature of judge. proceedings 1 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. This case is entrusted to S. Bench for preliminary hearing to be put 2-08-02-21 up there on 03 - 03 - 21MEMBER(J) The learned Member Judicial Mr. Muhammad Jamal Khan is 03.03.2021 under transfer, therefore, the case is adjourned. To come up for the same before S.B on 28.07.2021. Reader

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL	NO.	 /2020
_		

SULTAN HUSSAIN

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.	Departmental appeal	D	7.
5.	Service Tribunal judgment	E	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. 5626/2020

Service Tribunal

Diary No. 137

7/12/22

Mr. Sultan Hussain, SCT (BPS-16), GHS Badwan, 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 SCT (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

- 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:

APPELLANI

SULTAN HUSSAIN

THROUGH:

KAMRAN KHAN ADVOCATES BETTER COPY PAGE- 4

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. Al! 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



SOVERNMENT OF KHYBER PAKETUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO FEISCISR IN 8-57/2012 Dated Pashawar the 20-12-2012

From:

ਜ਼ਿਵ Secretary ਵਿੱਚਿਆ। ਹਮਿਲਾਂ ਤਹਾ ਜ਼ਿਕਸ਼ੀਨੇ ਵਿੱਚਿੰਦੀ Finance Deportmord.

Pennawar.

All Adapti strate Second is to Gove at Kingles Baketers and The School lember Good of Reviews Philographic Tree

Tre Secretary to Chief Michael Keytes Palesta Parkettera Tre Secretary Parkings Avores Wich Seprendie Halland

ATTHEORY OF A TESTED DESCRIPTION OF THE PORTUNATION OF

AT DISING COMMINGRANOFFICE AND SERVED AND SE

As Policical Agents "District & Securious disages michigaer Publications

भार सम्बद्धारण निम्नकारभाग महीलाम्बद्धाः विवसेन्द्रणी

The Chairman Fuelle Service Contraction Styles Pokhiuniana

The Charman, Gerope Tribund Parper Fakhurans.

Existed ...

REVISION IN THE PATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA PROVINCIAL SOVERNMENT BPS V-19

Dear Sir.

The Government of Vivier Politicative has been consensed whenex verso the rate of Conveyonce Alignance asmissible to all the mornings with Servanta Gast a response the following to expense ending the expense ending the end of the the following races. However, the conveyence allogates for employees in SPE-15 to EPS-19 Hall Temples - UKSTANGANG-

		TOSTING!R	TE (DIK)	TEVISED	RATE (2 <u>M)- </u>
SNO	BP5	MESHING R	A LEAD TO	Ŕς.	1,700/-	T
1	1-1				1 727	,
	-10 "I	<u> </u>	<u>00</u> :		7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7	
- 	· [1] 医一层	95.2,0	00	<u> </u>	201-	
	6:49	9.5,5,1	C01:-	R3	:5.0€0/-	
· · · ·	1.0			- -	7 77	

Comeyance Allowance of the opon rates at month shall be admissible to those SPS-17, 18 and 19 offices who have not been canditioned allicial vehicles.

Yours Fathfully

(Sahibada Sanod Ahmad) Secretary Farence.

Findsit NO. FIRSOISTERDA-51/2012

Date Pales or the To Tree on her, The

A Copy is loss and for information of the!

Association General Kinder House Colonia Parish Federal Preside Dynaming

Secretary to Govern Autoperous Sede in Order Factoristics
Autoperous Series Autoperous Sede in Order Factoristics

(INTIAZAYÜB) TI SERTAZ ICANISSI

Personal Information of Mr SULTAN HUSSAIN d/w/s of FAZLI

· Personnel Number: 00262774

CNIC: 10965045093

Date of Birth: 18.04.1965

Entry into Govt. Service: 18.06.1986

Length of Ser

Employment Category: Active Temporary

Designation: SENIOR CERTIFIED TEACHER

DDO Code: DA6027-GHS BADWAN

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No: EDUDA004800

Interest Applied: Yes

GPF Balance:

1,025,751.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 16

80001422 DISTRICT GOVERNMENT KHYBE

Pay Stage: 25

	Wage type	Amount		· Wage type	Amount
0001	Basic Pay	56,910.00	1000	House Rent Allowance	2,727.00
1924	UAA-OTHER 20%(16 G/NG)	1,500.00	1947	Medical Allow 15% (16-22)	2,317.00
2148	15% Adhoc Relief All-2013	1,160.00	2199	Adhoc Relief Allow @10%	814.00
2211	Adhoc Relief All 2016 10%	4,404.00	2224	Adhoc Relief All 2017 10%	5,691.00
2247	Adhoc Relief All 2018 10%	5,691.00	2264	Adhoc Relief All 2019 10%	5,691.00

Deductions - General

Wage type		Wage type Amount		Wage type	Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax-	-1,384.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-650.00		,	0.00

Deductions - Loans and Advances

Loan	Description	Princi	duction Balance

Deductions - Income Tax

Payable:

22,142.95

Recovered till July-2020:

1,384.00

Exempted: 5535.61

Recoverable:

15,223.34

Gross Pay (Rs.):

86,905.00

Deductions: (Rs.):

-6,324.00

Net Pay: (Rs.):

80,581.00

Payee Name: SULTAN HUSSAIN

Account Number: C/A 3591-1

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

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: VILL BADWAN

City: DIR LOWER

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

15302, 0888704-1

Monthly Salary Statement (June-2020)

Personal Information of Mr SULTAN HUSSAIN d/w/s of FAZLI ILAHI

Personnel Number: 00262774

CNIC: 10965045093

Date of Birth: 18.04.1965

Entry into Govt. Service: 18.06.1986

NTN:

Length of Service: 34 Years 00 Months 014 Days

Employment Category: Active Temporary

Designation: SENIOR CERTIFIED TEACHER

80001422-DISTRICT GOVERNMENT KHYBE

DDO Code: DA6027-GHS BADWAN

GPF A/C No: EDUDA004800

Payroll Section: 001

GPF Section: 001

Interest Applied: Yes

Cash Center:

GPF Balance:

1,022,411.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 16

Pay Stage: 25

Wage type		Amount	Amount Wage type		Amount
0001	Basic Pay	56,910.00	1000	House Rent Allowance	2,727.00
1210	Convey Allowance 2005	5,000.00	1924	UAA-OTHER 20%(16 G/NG)	1,500.00
1947	Medical Allow 15% (16-22)	2,317.00	2148	15% Adhoc Relief All-2013	1,160.00
2199	Adhoc Relief Allow @10%	814.00	2211	Adhoc Relief All 2016 10%	4,404.00
2224	Adhoc Relief All 2017 10%	5,691.00	2247	Adhoc Relief All 2018 10%	5,691.00
2264	Adhoc Relief All 2019 10%	5,691.00			0.00

Deductions - General

Wage type		Wage type Amount Wage t		Wage type	Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-1,718.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-650.00	4200	Professional Tax	-1,200.00

Deductions - Loans and Advances

		· 		
_ i		l —	l	
Lagra	Docarintian	Principal amount	Doduction	
Loan (Description	ETINCIPAL AMOUNT	Deduction	Balance
				

Deductions - Income Tax

Payable:

24,107.70

Recovered till June-2020:

18,081.00

Exempted: 6026.70

Recoverable:

0.00

Gross Pay (Rs.):

91,905.00

Deductions: (Rs.):

-7,858.00

Net Pay: (Rs.):

84,047.00

Payee Name: SULTAN HUSSAIN Account Number: C/A 3591-1

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

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: VILL BADWAN

City: DIR LOWER

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email

M52 0344 9315898.

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 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 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.

R/SHEWETH:

ATTESTON FACTS:

2-4/10/16

1- That the appellant is serving in the elementary and secondary, education department as Certified Teacher (BPS-15) quite efficiency EXAMENER Killing Pakhtunking and up to the entire satisfaction of the superiors. Proce 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. C 20:12:2012 whereby the conveyance allowance for employees

Appeal No. 1452/2019 Markad Hayat vs Govt

8

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 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.

THE DE CONSIGNED TO THE

ANNOUNCED

11.11.2019

Certified the ture copy

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

E-0

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 SCT (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

SULTAN HUSSAIN, SCT GHS Badwan, Dir Lower

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

_ OF 2020
(APPELLANT)(PLAINTIFF) (PETITIONER)
(RESPONDENT)(DEFENDANT)
IRAN KHAN, Advocate, nise, withdraw or refer to vocate in the above noted and with the authority to sel on my/our cost. I/we draw and receive on my/our osited on my/our account in
CLIENT
1

KAMRAN KHAN

ADVOCATES

OFFICE:

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