FORM OF ORDER SHEET

Form- A

Court of

/2020 Case No.-Order or other proceedings with signature of judge Date of order proceedings 3 2

1- 07/12/2020

'S'

S.No.

1

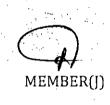
2-

The appeal presented today by Mr. Kamran Khan Advocate may be entered in the Institution Register and put to the Learned Member for proper order please.

REGISTRA

This case is entrusted to S. Bench for preliminary hearing to be put

up there on 0.3 - 0.3 - 2.1



03.03.2021 The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 28.07.2021.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. ____/2020

ANWAR YOUSAF

VS

EDUCATION DEPTT:

S.ŃO.	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. <u>163</u>

Khyber Eakntukhw Service Tribungi

Mr. Anwar Yousaf, CT (BPS-15), GHS Shawa, 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.

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 previ ously 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 & 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

- 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.....**D**.

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.

PPELLANT ANWAR YOUSAF

KAMRAN KHAN ADVOCATES

THROUGH:

BETTER COPY PAGE-> 4

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:

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. All 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 1^{π} 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 Data (D) D	
1	114	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/-

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

GOVERNMENT OF KHYBER PARTNUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO. FC/SC(SR-11)/8-52/2012 Dated Reshawar the: 20-12-2012

The Secretary tollow! of Knyp	en Hashelstera
Finance Department.	·
Pethawar.	

All Adaministrative Services to Gove, of Nicher Asternardined The Schlor Hember, Boad of Reverse, Popper, Pathua The Secretary to Chattering Minute Pathua The Secretary to Chatter Minute Pathua The Secretary Information Minute Pathua All Heads of Alfacter Decomposition Kryber Pathua All Pathua A

ತುದ್ರಕರು

.....

From

REVISION IN THE PATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL

Deal St The Government of Shyler Pathardown has been proved the enhance of vivior the rate of Conveyonce Allowance similarity to all the Provinces Ovil Servents Conof Kayban Pethanshwa (viorking in BFS-1.10 EPS-15) with from 1° Sectember, 2012 at the following rates. However, the conveyonce allowance (or employees in SPS-15) of PS-19 will remain urchanged.

				C (DW)	REVISED	ATE (P	H)
<u>5.ND</u>	<u>625</u>	eriz	HING RAL		RC+ 1360	<u>YAR</u> (-	
·		<u> </u>	ر00جے کی ج		<u>با دی</u>	7.00/-	
· <u>.</u> .	5-10	1 .:	°⊊,1,Ξ00		RS 1	<u>:540/-</u>	<u></u>
	11-15	k	<u>≈s.2;6</u> 00		۲.د.۲	720/-	
	15-12	í	85,5,000		PS 5	1,000/	

at abliessmbe ad llade annomination ander an Ic approximite antiperanto.

Yours Fathiully

(Saniozada Sacod Aninadi Secretary Fazaros

INTAZ AYUBI

Datel Persusar the 10" Trecember, 20 -

Endste NO. FDISONSTERDS-512012

A Copy is lowarded for information to thet-

Anonymian Canedi Kinder Pakitian Ing Bernarat

לאינים אלא אינים איני איני אינים איני

I	Dist. Govt. NWFP-Pro District Accounts Office Dir a Monthly Salary Statement (J	t Timargar / 202		
Personal Information of Mr A Personnel Number: 00264139 Date of Birth: 11.05.1977	NWAR YOUSAF d/w/s of M CNIC: 10977039327 Entry into Govt. Service: 0	NTN:	of Service: 16 Years 04 Month	,
Employment Category: Vocati	onal Tomporan		i curs of Month	s oor Days
Designation: CERTIFICATED DDO Code: DA6044-GHS SHA	TEACHER	80001438-DISTRICT GC	VERNMENT KHYBE	•
Payroll Section: 001 GPF A/C No: VOL CP 13 P 79 Vendor Number: -	GPF Section: 001	Cash Center: GPF Balance:	147,420.00	•
Pay and Allowances:	Pay scale: BPS For - 2017	Dev Gold and a second		

Pay scale: BPS For - 2017

5	~ ·	_			
Pav :	Ncale.	1 3700-01	Civil	DDC	
	ovure	Type.	CIVII	BPS:	16

Pay Stage: 9

	wage type	Amount -		
-	0001 Basic Pay		Wage type	America
	Busic Tay	32,590.00	1000 House Rent Allowance	Amount
	1924 UAA-OTHER 20%(16 G/NG)		1000 House Rent Allowance	2,727.00
	2149 1594 1 1	1,500.00	1947 Medical Allow 15% (16-22)	
	2148 15% Adhoc Relief All-2013	600.00	2100 i ii	1,500.00
	2211 Adhoc Relief All 2016 10%	000.00	2199 Adhoc Relief Allow @10%	410.00
	Renet All 2016 10%	2,356.00	2224 Adhoc Relief All 2017 10%	410.00
Į	2247 Adhoc Relief All 2018 10%	2000	2224 Autoc Relief All 2017 10%	3,259.00
-	2010 10/0	3,259.00	2264 Adhoc Relief All 2019 10%	
			10% Achiel An 2019 10%	3,259.00

Deductions - General

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

Deductions - Loans and Advances

Loan	Deserinti		 · · · ·
6505	Description GPF Loan Principal Instal	Principal amount 234,000.00	 Balance
	· · · · · · · · · · · · · · · · · · ·		 188,500.00

Deductions - Income Tax

Wasse

Payable: 875.95 Recovered till July-2020:-55.00 Exempted: 218.70 Recoverable: 602.25

Gross Pay (Rs.): 51,460.00 Deductions: (Rs.): -11,495.00 Net Pay: (Rs.): 39,965.00

Payee Name: ANWAR YOUSAF Account Number: CA 0900-1

Bank Details: UNITED BANK LIMITED, 211354 UBL OUCHDIR UBL OUCH DIR,

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: VILL.TINDO DAG City: DIR LOWER

Temp. Address:	•	Domicile: NW	- Khyber Pakhtunkhwa	÷	Housing Statu	s: No Official	
City:		Email:	-		$\mathbf{A}^{\mathbf{r}}$		

(265994/23.07.2020/16:09:31) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted

D	Dist. Govt. NWFP-Pro istrict Accounts Office Dir at Monthly Salary Statement (Ju	Timaroar	-			
Personal Information of Mr Al Personnel Number: 00264139 Date of Birth: 11.05.1977	NWAR YOUSAF d/w/s of MU CNIC: 10977039327 Entry into Govt. Service: 01		NTN:	Of Service: 16	Years 03 Mc	onths 001 Days
Employment Category: Vocatio	nal Temporary					State of Days
Designation: CERTIFICATED 7 DDO Code: DA6044-GHS SHA	FEACHER	80001438-DIST	RICT GO	VERNMENT	KHYBE	· · -

Payroll Section: 001 GPF Section: 001 Cash Center: - GPF A/C No: VOL CP 13 P 79 Interest Applied: Yes **GPF** Balance: Vendor Number: -137,580.00 Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 16 Wage type

	10001	Basic Pay	Amount	Wage type	Amount	٦Ľ.
			32,590.00	1000 House Rent Allowance	Amount	4
·	1210	Convey Allowance 2005			<u>2,727.00</u>	
	1947	Medical Allow 15% (16-22)	5,000.00	1924 UAA-OTHER 20%(16 G/NG)	1,500.00	1
		Medical Allow 15% (16-22)	1,500.00	2148 15% Adhoc Relief All-2013		ł
	2199	Adhoc Relief Allow @10%		2210 1070 Adnoc Kenel All-2013	600.00	
	2224	Adhoc Relief All 2017 10%	410.00	2211 Adhoc Relief All 2016 10%	2,356.00	ĺ
		Aunoc Renet All 2017 10%	3,259.00	2247 Adhoc Relief All 2018 10%		1
Į	2264	Adhoc Relief All 2019 10%	3,259.00	== ··· 1 Rande Renet An 2018 10%	3,259.00	-
					0.00	

Deductions - General

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

Deductions - Loans and Advances

Loan			•
Description 6505 GPF Loan Principal Instal	Principal amount	Deduction -6,500,00	Balance
Deductions - Income Tax		0,300.00	195,000.00

Payable: Recovered till June-2020: 2,131.00 2,840.70 Exempted: 709.70 Recoverable: 0.00

Gross Pay (Rs.): 56,460.00 Deductions: (Rs.): -12,939.00 Net Pay: (Rs.): 43,521.00

Payee Name: ANWAR YOUSAF

Account Number: CA 0900-1

Bank Details: UNITED BANK LIMITED, 211354 UBL OUCHDIR UBL OUCH DIR,

Leaves: Opening Balance:	Availed:	Earned:
--------------------------	----------	---------

Balance:

M

Pay Stage: 9

Permanent Address: VILL.TINDO DAG Cine DIR LOWER

Temp. Address:	Domicile: NW - Khyber Pakhtunkhwa		Housing Status: No Official	
City:	Email:		A	
		• • •		

(265994/06.07.2020/14:48:34) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted

APPELL

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRUE PESHAWAR

APPEAL NO. 1452 /2019

Mr. Magsad 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 THE OF VACATIONS AND AGAINST NO ACTION TAKEN ON THE THE APPEAL OF APPELLANT WITHIN DEPARTMENTAL 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-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. 24/10/19

R/SHEWETH: ALTESTON FACTS:

ERAMBER

Belice Tribunal.

1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency Khille 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

Appeal No. 1452/2019 Markad Hayat vs Govt

Counsel for the appellant present:

11.11.2019

tified the he ture copy

MINER

Peshawar

08

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.

Chairmán

File be consigned to the record.

ANNOUNCED

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

E-G

Respected Sir,

To,

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 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 ANWAR YOUSAF, CT GHS Shawa, Dir Lower

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR

OF 2020

Anwar Yousaf

(APPELLANT) __(PLAINTIFF) (PETITIONER)

VERSUS

Education Department

(RESPONDENT) __(DEFENDANT)

I/We Anwar Yousaf

Do hereby appoint and constitute **KAMRAN KHAN, 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

CLĬENT

ACCEPTED KAMRAN KHAN ADVOCATES

OFFICE:

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