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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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APPEAL N	IA		/2020
APPEAL N	IU.	 	, ,,,,,,,

FARMAN ULLAH 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	Vakalatnama		10

APPELLANT

THROUGH:

UMAR FAROOQ ADOCATE HIGH COURT

FLAT NO.4 2ND FLOOR, JUMMA KHAN PLAZA WARSAK ROAD, PESHAWAR CELL NO 0313-8901647

Note: Sir,

Spare copies will be submitted. After submission of the case.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 1085 /2020

Khyber Pakhtukhwa Service Tribunal

Mr, FARMAN ULLAH PST(BPS-12)

GPS GARANG NO 1 DIST MOHMAND.

Personnel Number: 50312306

Dates 11/11/2020

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 OKHYBER 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 Registratbe awarded in favor of the appellant.

R/SHEWETH: ON FACTS:

11/11/70

- 1- That the appellant is serving in the Elementary & Secondary Education Department as PST (BPS-12) 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.

- 6- That the appellant also prayed to be treated through the principals of consistency for allowing such relief which was granted in appeal No 1452/2019 titled Maqsad Hayat versus Education Department in Judgment Dated 11.11.2019.
- 7- That where after the appellant waited for the statutory period of ninety days but no reply has been received from the respondents. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

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 aspect 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.

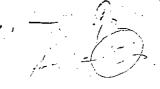
It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for under the golden principals of consistency.

APPELLANT FARMAN ULLAH

THROUGH:

UMAR FAROQQ 10







GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO. FD/SO(SR-II)/8-52/2012 Dated Pashawar the: 20-12-2012

From

The Secretary to Govi. of Khytter Pachtunktiwa. Finance Department.

Perhawar.

To:

All Administrative Secretaries to Govi. of Kimber Pakintonishina.

The Senior Member, Board of Revenue, Whyther Pakhtusidaka.

The Secretary to Governor Knyber Pakitalisawa

The Secretary to Chief Misseer, Khyter Pakhtunkhwa ż

The Secretary, Franchidal Ascerby, Khyber Pakallerkhika

All Heads of Attached Departments in Knyber Pakhiunkhwa ij. Af Ölstrick Coordination Officerate Khyssel Paklitunkhess.

All Political Agents / District & Sezalor's Judges in Khytter Pakheirikhwa

The Registral Pashawar High Court. Peshawar

The Chairman, Public Service Convession, Khyber Pakhtunkowa. The Chairman, Services Tribunah Khyber Pakhtunkhwa.

Someth

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 Knyter Pakhturáhvia has been pleased to enhance / revise the rate of Conveyonce Allowance admissible to all the Provinces Givil Servants, Govic of Knyberi Pakhtimkhvia (Violking in BPS-1 to BPS-15) w.e.f from 1° September, 2012 at the following rates. However, the conveyance allowance for employees in SFS-15 to EPS-19 - urkhanged. प्रभागित सम्बद्धान

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SNO	BP5	EXISTING RATE (PM)	REVISED RATE (PM)
	1-4	Rs.1,500/-	Rs.1.700/-
 	5-10	Ps:1,500/-	Rs.1,840/-
	11-15	Ps.2,000/-	RS.2,720/-
	16-39	Rs.5,000/-	R\$.5,000/-

Comveyance Allowance of the above rates per month shall be admissible to Those BPS-17, 18 and 19 officers who have not been sanctioned official vehicles.

Yours Faithfully,

(Sahibzada Sacod Alimad) Secretary Finance

Edds: 80. FD/80/8R-15/8-52/2012

Dated Pessiawar the 20° December, 2012

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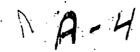
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All Automotivous / Sertil Autonomous Socies in Kingber Pakit tarkhala

(BUYA ZATUB)

Additional Secondary (Rem)





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 Pakhlunkhwa.
- 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 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/-

Conveyance Allowance at the above rates per month shall be admissible to those BPS-17,
 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; 20.12

GHALANAI S#:2

P Sec:001 Month: August 2019 MG6013 -DEO Primary Education Mohm P Sec:001 Month: August 2019 MG6013 -DEO Primary

Education Mohm

S#:1

Pers #: 50312306

DEO PRIMARY EDUCATION MOH

Pers #: 50312306 Buckle: DEO

PRIMARY EDUCATION MOH

Name: FARMAN ULLAH

NTN:

Name: FARMAN ULLAH

NTN:

PRIMARY SCHOOL TEACHER

GPF#:

PRIMARY SCHOOL TEACHER

GPF#:

CNIC No.2140335622957

Old#:

CNIC No.2140335622957

GPF Interest Applied

Old #:

GPF Interest Applied

12 Active Temporary

MG6013 -

12 Active Temporary

GPF Balance 84,788.00

MG6013

PAYS AND ALLOWANCES:

0001-Basic Pay

15,240.00

PAYS AND ALLOWANCES: 2264-Adhoc Relief All 2019 10%

1,524.00

1000-House Rent Allowance 1,961.00 1300-Medical Allowance 1,500.00 1528-Unattractive Area Allow 1,500.00 2148-15% Adhoc Relief All-2013 2199-Adhoc Relief Allow @10% 279.00

2211-Adhoc Relief All 2016 10% 2224-Adhoc Relief All 2017 10% 2247-Adhoc Relief All 2018 10%

Gross Pay and Allowances

557.00

1,114.00 1,524.00 1,524.00

26,723.00 Gross Pay and Allowances **DEDUCTIONS:**

26,723.00

DEDUCTIONS:

GPF Balance 84,788.00

3501-Benevolent Fund

3990-Emp.Edu. Fund KPK

4004-R. Benefits & Death Comp:

Subrc:

2,220.00

600.00

125.00

1,052.00

Total Deductions

3,997.00

Total Deductions

3,997.00

Subrc:

22,726.00

D.O.B LFP Quota: 4

05.03.1991 ALLIED BANK LIMITED SHABQADAR

D.O.B

05.03.1991 ALLIED BANK LIMITED

SHABQADAR

02 Years 11 Months 012 Days

10042539540011

02 Years 11 Months 012 Days

LFP Quota:

22,726.00

10042539540011

Sheet no. 1

GHALANAI

GHALANAI

P Sec:001 Month:September 2019

S#:2

P Sec:001 Month:September

MG6013 -DEO Primary Education Mohm

MG6013 -DEO Primary

Education Mohm

Pers #: 50312306 Buckle: DEO PRIMARY EDUCATION MOH

Pers #: 50312306 Buckle: DEO

PRIMARY EDUCATION MOH

Name: FARMAN ULLAH -NTN: Name: FARMAN ULLAH

NTN:

PRIMARY SCHOOL TEACHER

12 Active Temporary

GPF#:

PRIMARY SCHOOL TEACHER

GPF #:

CNIC No.2140335622957

Old #:

CNIC No.2140335622957

Old #:

GPF Interest Applied

GPF Interest Applied MG6013 -12 Active Temporary

MG6013 -

PAYS AND ALLOWANCES:

PAYS AND ALLOWANCES:

0001-Basic Pay

15,240.00

2247-Adhoc Relief All 2018 10%

2264-Adhoc Relief All 2019 10%

1,524.00

1000-House Rent Allowance

1,961.00 2,856.00 1,524.00

1210-Convey Allowance 2005 1300-Medical Allowance

1,500.00

1528-Unattractive Area Allow

1,500.00

2148-15% Adhoc Relief All-2013 2199-Adhoc Relief Allow @10%

557.00 279.00

2211-Adhoc Relief All 2016 10%

1,114.00

2224-Adhoc Relief All 2017 10% **Gross Pay and Allowances**

1,524.00 29,579.00 **Gross Pay and Allowances**

29,579.00

DEDUCTIONS:

DEDUCTIONS:

GPF Balance 87.008.00

Subrc: 2,220.00 GPF Balance 87,008.00

Subrc:

3501-Benevolent Fund 3990-Emp.Edu. Fund KPK 4004-R. Benefits & Death Comp: 600.00 125.00

600.00

Total Deductions

3,545.00

Total Deductions

3,545.00

05.03.1991 ALLIED BANK LIMITED

26,034.00

05.03.1991 ALLIED BANK LIMITED SHABQADAR

26,034.00

D.O.B LFP Quota:

4

D.O.B LFP Quota:

SHABQADAR

03 Years 00 Months 011 Days

10042539540011

03 Years 00 Months 011 Days

10042539540011

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

Subject: <u>DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION</u>

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 PST (BPS-12) 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 ion 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-15 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 the august K.P.K service tribunal also allowed the restoration of the convence allowance in its judgment dated 11.11.2019 in appeal No 1452/2019 titled Magsad Hayat versus Education Derpartment Copy attached. 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.

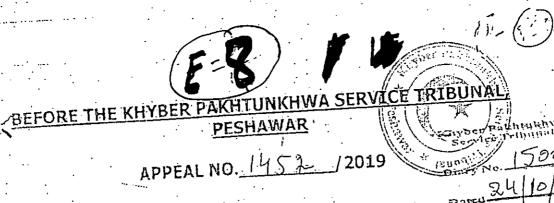
It is therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during the winter & summer vacations.

Dated: 20.07.2020

Your Obediently

FARMAN ULLAH
GPS GARANG NO 1 DIST MOHMAND





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

Khyber

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 VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT 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 plecito-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.

97 /01/14 R/SHEWETH: ON FACTS:

1- That the appellant is serving in the elementary and especondary education department as Certified Teacher (BPS-15) 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 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
Marbad Hayat vs Gort 122 (F)

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.

ile be consigned to the resolution

ANNOUNCED

11.11.2019

Se Se

Chairman

M

peshawat

10 C. C. C. C. L.

VAKALATNAMA

	TIBUNAL, PESHAWAR
OF 2	020
	(APPELLANT)
FARMAN ULLAH	
(PLAINTIFF)	(PETITIONER)
VEDCUC	
<u>VERSUS</u>	
Education Department	(RESPONDENT) (DEFENDANT)
I/WeFARMAN ULLAH	
do hereby appoint and constitute UMAR FAROOQ,	Advocate, High court
do hereby appoint and constitute UMAR FAROOQ, Peshawar to appear, plead, act, compromise, withdrawar.	aw or refer to arbitration
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