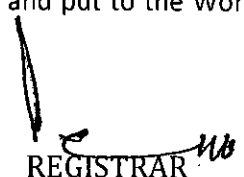


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6858 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/07/2021	<p>The appeal presented today by Mr. Khair-ul-Wahab Yousafzai Advocate may be entered in the Institution Register and put to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to D. Bench for preliminary hearing to be put up there on 12.07.2021. As a clubbed case with appeal no.12889/2020.</p> <p style="text-align: right;">CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2021

KALSOOM AKBAR

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:

KHAIR UL WAHAB YOUSAFZAI
ADVOCATE HIGH COURT

Office, 306 Block-C City Tower University Road
Peshawar

CELL NO 0300-5952824

Note:

Sir,

Spare copies will be submitted
After submission of the case .

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 6858 2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6944

Dated 9/7/2021

Mrs. **KALSOOM AKBAR**, SS (BPS-18)
GGHSS, SHABQADAR FORT, **CHARSADDA**
Personnel Number: 00387687

.....**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 SERVICES TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS WHO VIDE THE SAME ARE ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST IN ACTION OF THE DEPARTMENTAL APPELLATE AUTHORITY WHO VIDE THE SAME DID NOT PASS ANY APPROPRIATE ORDER OVER THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be ordered/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 **SUBJECT SPECIALIST BPS-18** 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 BPS- 16 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance. Copy of the Notification dated 20.12.2012 are attached as annexure..... **A.**

Filed to-day
Registrar
9/7/21

- 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 appellant being aggrieved of the impugned action of the respondents regarding deduction of conveyance allowance in vacations period/months filed Departmental appeal but the same has not been decided so far. Copy of the Departmental appeal & is attached as annexure.....**D.**
- 5- That other colleges of appellant of different cadre approached this august tribunal in different service appeals which was allowed by this august tribunal vide its judgment no 1452/2019 titled maqsad Hayat versus Education Department Dated 11-11-2019.....**E.**
- 6- That the appellant also prayed to be treated alike through the principles 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.

GROUND:

- 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 has not been treated by the respondent Department in accordance with law and Rules on the subject noted above and as such the respondents have violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned action of the respondents is without any legal & lawful 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 appellants are 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 appellants.
- F- That as the act of the respondents is illegal, unconstitutional, without any lawful authority and not only discriminatory but is also the result of malafide on the part of respondents.
- G- That appellants has the vested right of equal treatment before law and the act of the respondents to deprive the appellants 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 appellants fully entitle for the grant of conveyance allowance during vacations.
- J- That the appellants seeks permission of this Honorable Tribunal to raise any other grounds available at the time of arguments.

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

APPELLANT
KALSOOM AKBAR
THROUGH:
KHAIR UL WAHAB YOUSAFZAI
ADVOCATE HIGH COURT

CERTIFICATE

It is certificated that no such like appeal has earlier been filed.

AFFIDAVIT

It is verified on solemn affirmation that all the contents of this appeal are true and correct to the best of my knowledge and belief.

Prepared by
Khair Ul Wahab Yousafzai
Advocate, High Court



DEPONENT



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FDSO(SR-11)/8-52/2012
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 in Khyber Pakhtunkhwa.
- 8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
- 9. The Registrar, Peshawar High Court, Peshawar
- 10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
- 11. The Chairman, Services 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 / raise 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, 18 and 19 officers who have not been sanctioned official vehicles.

Yours Faithfully,

ATTENDED
(Signature)
(Sahibzada Saad Ahmad)
Secretary Finance Advocate

Encl: NO. FDSO(SR-11)/8-52/2012

Dated Peshawar the 20th December, 2012

A Copy is forwarded for information to the:-

- 1. Assistant General, Khyber Pakhtunkhwa, Peshawar.
- 2. Secretaries to Government of Punjab, South & Suburban Finance Department
- 3. All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa

(Signature)
(KUTIAZ AYUB)
Additional Secretary (Reg)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION 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 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

ATTESTED
to be true copy
Advocate

Endst No. FD/SO(SR-II)8-52/2012 Dated Peshawar the 20th December, 2012

Handwritten signature and number 52B

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



Personal Information of Miss KALSOOM AKBAR d/w/s of MEHBOOB UL AKBAR
 Personnel Number: 00387637 CNIC: 1620167005754 NTN: 4103935-1
 Date of Birth: 12.08.1982 Entry into Govt. Service: 10.02.2007 Length of Service: 12 Years 05 Months 023 Days

Employment Category: Active Temporary
Designation: SUBJECT SPECIALIST
DDO Code: PW6237-PRINCIPAL GGHSS WADPAGGA PESHAWAR
Payroll Section: 002 GPF Section: 001 Cash Center: 8000:279-DISTRICT GOVERNMENT KHYBE
GPF A/C No: 387687 Interest Applied: Yes GPF Balance: 346,772.00
Vendor Number: Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 17 Pay Stage: 9

Wage type	Amount	Wage type	Amount
0001 Basic Pay	51,070.00	1000 House Rent Allowance	4,431.00
1947 Medical Allow 15% (16-22)	1,985.00	2148 15% Adhoc Relief All-2013	1,100.00
2199 Adhoc Relief Allow @ 10%	750.00	2224 Adhoc Relief All 2017 10%	5,107.00
2247 Adhoc Relief All 2018 10%	5,107.00	2265 Adhoc Relief All 2019 05%	2,553.00

Deductions - General

Wage type	Amount	Wage type	Amount
3017 GPF Subscription - Rs4270	3,579.00	3501 Benevolent Fund	800.00
3679 Income Tax	804.00	3990 Emp. Edu. Fund KPK	250.00
4004 R. Benefits & Death Comp.	900.00		0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax
 Payable: 16,072.08 Recovered (ill JUL-2019): 804.00 Exempted: 6428.48 Recoverable: 8,839.60

Gross Pay (Rs.): 72,105.00 Deductions: (Rs.): 6,333.00 Net Pay: (Rs.): 65,772.00

Payer Name: KALSOOM AKBAR
Account Number: 2290-008
Bank Details: THE BANK OF KHYBER, 080048 PESHAWAR HIGH COURT BRANCH, PESHAWAR HIGH COURT BRANCH, PESHAWAR

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: City: SWABI Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
Temp. Address: City: Email: kalsoomakbar.taeng@gmail.com

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

**DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION
OF THE CONCERNED AUTHORITY BY ILLEGALLY AND
UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE
DURING WINTER & SUMMER VACATIONS**

Subject:

Respected Sir,

With due respect it is stated that I am the employee of your good self Department and is serving as 22 (BPS-18) 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-12 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 titled 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 conveyance allowance in its judgment dated 11.11.2019 in appeal No 1452/2019 titled Madsad Hayat versus Education Department. 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 preterted this Departmental appeal before your good self.

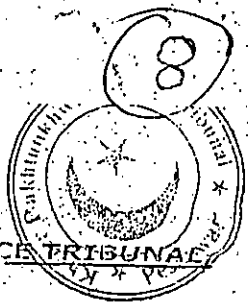
It is therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during the winter & summer vacations.

Dated: 19.03.2021

Your Obediently
KAI SOOM ARBAIS
A

APPROVED
19.03.2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



APPEAL NO. 1452 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1500

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

Dated 24/10/2019

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 (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 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.

Medto-day
Registrar
24/10/19

R/SHEWETH:

ON FACTS:

- 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.
- 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

Re-constituted to-day
Registrar
24/10/19

ATTESTED
to be true copy
Advocate

Appeal No. 1452/2019
Mazhad Hayat vs Govt



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 on 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.

Date of Presentation of Petition: 11-2-2019
Chairman

ANNOUNCED	Number of Words	800
	Copying Fee	10
11.11.2019	Urgent	4
	Total	14

ATTACHED
to be true copy
Advocate

ATTESTED

CHIEF CLERK
Federal Service Tribunal
Peshawar

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

_____ OF 2021

KALSOOM AKBAR

(APPELLANT)

(PLAINTIFF)

(PETITIONER)

VERSUS

(RESPONDENT)

Education Department

(DEFENDANT)

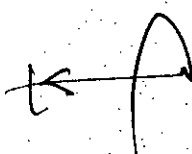
I/We **KALSOOM AKBAR**

do hereby appoint and constitute **KHAIR UL WAHAB YOUSAFZAI, Advocate, High Court, 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. ____/____/2021



CLIENT


ACCEPTED
KHAIR UL WAHAB YOUSAFZAI
ADVOCATE