

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

COMPLAINT Nos. 0201 to 220/Infrml/2023

Dated:08.09.2023* R.O. Multan

1. **Ms. Faiza Azeem**
2. **Ms. Ayesha Siddiqa**
3. **Ms. Aleeza Javaid**
4. **Ms. Hifza Hira Shareef**
5. **Ms. Huma Sadiq**
6. **Ms. Affifa Armish**
7. **Ms. Jawaria Zafar**
8. **Ms. Ammara Azeem**
9. **Mr. Zaib Hassan**
10. **Ms. Fatima Akbar**
11. **Ms. Fatima Tul Zahra**
12. **Ms. Hafiza Sana Nawaz**
13. **Ms. Zarish Fatima**
14. **Ms. Anum Javiad**
15. **Ms. Faiza Batool**
16. **Ms. Iram Rozeela**
17. **Ms. Amber Zahra**
18. **Ms. Parveen Kanwal**
19. **Ms. Suhana Tareen**
20. **Ms. Madiha Hussain**

The Women University, Multan.

... Complainants

V e r s u s

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer
Appraisalment Officer

: Dr. Khalil Ahmad, Advisor
: Mr. Muhammad Tanvir Akhtar, Advisor

INFORMAL RESOLUTION OF DISPUTES
(SECTION-33)

This order caters to extend relief in tax deduction in terms of Section 153(1)(b) of the Income Tax Ordinance, 2001 (the Ordinance) of low paid employees allowed on the strength of decisions in C. No.2538/ISB/IT/2021, 0032 to 0043, 0045, 0047, 0048 & 0052 to

* Date of registration in FTO Sectt.

0069/ Infml/2022, 1631, 1633 to 1636, 1654, 2419-2421, 2423, 2428 & 2430/PWR/IT/2022 which have been upheld by the Hon'ble President of Islamic Republic of Pakistan vide orders dated 15.08.2022 on identical issue.

2. The alleged Departmental practice to subject the remuneration of low paid adhoc / temporary employees has been examined in these orders in the light of relevant legal provisions i.e. Sections 12 and 149 of the Ordinance as under:

Section 12. Salary- (2) Salary means any amount received by an employee from any employment, whether of a revenue or capital nature, including—

(a) any pay, wages or other remuneration provided to an employee, including leave pay, payment in lieu of leave, overtime payment, bonus, commission, fees, gratuity or work condition supplements (such as for unpleasant or dangerous working conditions).

Section 149. Salary. — (1) Every [person responsible for] paying salary to an employee shall, at the time of payment, deduct tax from the amount paid at the employee's average rate of tax computed at the rates specified in Division I of Part I of the First Schedule on the estimated income of the employee chargeable under the head "Salary".

3. The above Legal provisions govern "Salary Taxation" Section 12 and withholding of tax thereupon under Section 149 of Ordinance only the equation of **employer-employee** based on "**Master-Servant Relationship**" is material. This **criterion** forms the basic parameter for any employment: Regular/Adhoc/Temporary/ Hired / Daily Wages which are different shades & forms of employment and law doesn't create any distinction among all the above forms.

4. These decisions attracted attention of identical stakeholders and some of the employees engaged in teaching on part time basis as visiting faculty members in the Women University, Multan (WUM) approached this office and claimed that they are also entitled to benefit from these decisions because they meet the criteria of being low paid employees working with any organization and are being subjected to monetary hardship through deductions @ 10-20% at source in terms

of Section 153(1)(b) of the Ordinance. It is an anomaly that regular employees earning salary upto Rs.600,000/annum pay no tax whereas they are taxed heavily.

5. In order to examine the bonafides of their claim, the Treasure, WUM vide letter No.2538/ISB/IT/2021-Impl dated 17.07.2023 was asked to provide a list of adhoc/temporary teachers engaged in teaching on semester basis. He has responded vide letter No.TRE/WUM/1328/D dated 27.07.2023 by providing a list of teachers' alongwith their annual receipts and tax deducted thereon during tax year 2022-2023. Proceeding further, a 'Questionnaire' was circulated to these employees in order to ensure their eligibility for the said benefit on the same analogy.

6. The following teachers from the WUM, Multan have responded to the Questionnaire, affirming that they are exclusively engaged in the teaching activity on semester basis with the University as temporary / visiting faculty and their annual receipts did not exceed Rs.600,000 in Tax Year 2023. Besides, their receipts are not likely to exceed this threshold during 2023-24 as well.

S. No.	Name	CNIC
1	Ms. Faiza Azeem	3630227216372
2	Ms. Ayesh Siddiq	3630234717168
3	Ms. Aleeza Javaid	3630269790588
4	Ms. Hifza Hira Shareef	3630281971160
5	Ms. Huma Sadiq	3630268229636
6	Ms. Affifa Armish	3630240842574
7	Ms. Jawaria Zafar	3660255737012
8	Ms. Ammara Azeem	3630274088794
9	Mr. Zaib Hassan	3630261416733
10	Ms. Fatima Akbar	3630288038086
11	Ms. Fatima Tul Zahra	3630210109364
12	Ms. Hafiza Sana Nawaz	3630262312934
13	Ms. Zarish Fatima	3630268978040
14	Ms. Anum Javiad	3630269510456
15	Ms. Faiza Batool	3230209721526
16	Ms. Iram Rozeela	3630292264822
17	Ms. Amber Zahra	3210242491892
18	Ms. Parveen Kanwal	3620166764594
19	Ms. Suhana Tareen	3630246859998

20	Ms. Madiha Husain	3630274288708
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7. As discussed in para (1) the employees listed above fully meet the criteria of being low paid employees working on temporary/adhoc basis having a relationship of an employee with institution in terms of Section 12 of the Ordinance and their aggregate remuneration received per annum from this profession are below the tax exempt threshold of Rs.600,000 for salary income. **Petitioners' cases, when compared with the regular faculty members of the institute in question, the deductions being made from regular faculty vis-à-vis the petitioners there is a visible incidence of discrimination despite the fact that nature of job remains the same in both categories. Persons falling in the former category are getting more but paying less taxes u/s 149 of the Ordinance, whereas the later category is subject to higher tax deductions (@ 10/20 percent) in terms of Section 153(1)(b) of the Ordinance.**

RECOMMENDATIONS:

8. It is recommended that:

- (i) the CCIR, RTO, Multan is directed to ensure that tax shall be deducted on these low paid employees working on temporary / adhoc u/s 149, as has been ordained by the Hon'ble President of Islamic Republic of Pakistan vide orders dated 15.08.2022 in similar cases of teaching community;
- (ii) the Treasure, Women University, Multan to ensure that from now onwards tax withholding on the payments made to these temporary / visiting faculty teachers are subjected to section 149 of the Ordinance in future; and
- (iii) report compliance within 45 days.

Dated: 18/9/2023

Approved for reporting

(Signature)
Director
FTO Secretariat
Islamabad

(Signature)
(Dr. Asif Mahmood Jah)
(Hilal-i-Imtiaz)(Sitara-i-Imtiaz)
Federal Tax Ombudsman