THE FEDERAL TAX OMBUDSMAN
ISLAMABAD

COMPLAINT NOS.0686 TO 0735/INFRML/2024

Dated:30.09.2024* RO, Sialkot

Ms. Sitara Javed, ...Complainant
Govt. Girls High School, Dait, Sialkot.

Versus

The Secretary, ...Respondent
Revenue Division,
Islamabad.

Dealing Officer	:	Mr. Rana Hassan Akhtar, Advisor
Appraised by	:	Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representative	:	Mr. Tanveer Akhtar, the Complainant
Departmental Representative	:	Mr. Ali Imam, DCIR

FINDINGS/RECOMMENDATIONS

The complaint has been filed under Section 10(1) of the Federal Tax Ombudsman, Ordinance, 2000 (FTO Ordinance) regarding tax rebate admissible to full time teacher or a researcher, under clause (2) Part-III of Second Schedule to the Income Tax Ordinance, 2001.

2. Brief facts of the case are that the Complainant is presently posted as Head Master in Govt. High School, Charwa, Sialkot. Before posting as Head Master, he was entitled to tax rebate available to teachers, however, after being posted as Head Master, he has been deprived of said tax rebate of 25%. He has prayed to allow 25%tax rebate in salary as he is still categorized in Teaching Cadre by Provincial Government despite being posted as Head Master. He has further contended that said tax rebate is already allowed to the Principles, Headmasters and Headmistress of FG School and School Heads in the province of Khyber Pakhtunkhwa.

3. Identical complaints have also been filed by following Principals, Head Masters, Senior Head Masters, Head Mistresses

*Date of registration in FTO Sectt.

and Senior Head Mistresses of High and Higher & Secondary Schools of School Education department, Sialkot, tabulated as below.

S.#	Complaint No.	Name of Complainant	CNIC No.	Designation/ Place of Posting	Address
1	0686/Infrml/2024	Sitara Javed		SSE	GGHS Dait
2	0687/Infrml/2024	Shumaila Anwar		SST	GGHS Syeda Wali
3	0688/Infrml/2024	Riffat Batool		HM	GGHS Rai Pur
4	0689/Infrml/2024	Yasmin Anjum		SST	GGHS MC Kashmiri
5	0690/Infrml/2024	Abaidur Rehman		HM	GHS MC Kashmiri
6	0691/Infrml/2024	Muqadas Rukhsana		SST	GGHS Dhanawali
7	0692/Infrml/2024	Amjad Parvez		HM	GHS Dhananwali
8	0693/Infrml/2024	Muhammad Sarfaraz Ghuman		Principal	GHS Islamia Sambrial
9	0694/Infrml/2024	Istikhar Ahmed		SST	GHS Sahowala
10	0695/Infrml/2024	Muhammad Akbar Ghuman		Principal	GHS Muslim Awami Sambrial
11	0696/Infrml/2024	Gulzar Ahmed Khan		SST	GHS Public Ghartal
12	0697/Infrml/2024	Syed Javed ul Hasan		SST	GHS Majra
13	0698/Infrml/2024	Faisal Mehmood		SST	GHS Kuthiala
14	0699/Infrml/2024	Muhammad Ijaz Anjum		HM	GHS Begowala
15	0700/Infrml/2024	Sajjad Ahmad Ishtiaq		HM	GHS Bhopalwala
16	0701/Infrml/2024	Mureed Ghos		Principal	GHS Kulluwal
17	0702/Infrml/2024	Tahira Riffat		SST	GGHS Verowala
18	0703/Infrml/2024	Asifa Bibi		Principal	GGHSS Kharolian
19	0704/Infrml/2024	Sugufta Parveen		SST	GGHS Bhopalwala
20	0705/Infrml/2024	Rehana Kosar		SST	GGHS Sambrial
21	0706/Infrml/2024	Nighat Yasmeen		SST	GGHSS Begowala
22	0707/Infrml/2024	Farah Adeeba		SST	GGHS Sahowala
23	0708/Infrml/2024	Jeweria Faiz Cheema		HM	GGHS Jethikay
24	0709/Infrml/2024	Mudasra Khanum		SST	GGHS Randheer
25	0710/Infrml/2024	Asia Saher		Principal	GGHSS Kulluwal
26	0711/Infrml/2024	Sidra Amjad		SSE	GGHS Roras
27	0712/Infrml/2024	Manzoor Ahmad		HM	GHS Baddoke Cheema
28	0713/Infrml/2024	Muhammad Asghar		HM	GHS Rohaila

29	0714/Infrml/2024	Muhammad Aftab Akhtar		SSE	GHS Randhir
30	0715/Infrml/2024	Muhammad Ataulmustafa		SST	GHS Malkhanwala
31	0716/Infrml/2024	Farooq Ahmad		HM	GHS DhillamBalaggan
32	0717/Infrml/2024	Shahryar Masood		SSE	GHS SArankay
33	0718/Infrml/2024	Muhammad Majeed		HM	GHS Jathikay
34	0719/Infrml/2024	Zaighum Abbas		SSE	GHS Wan
35	0720/Infrml/2024	Madeeha Amin		SSE	GGHS Bhola Musa
36	0721/Infrml/2024	Muhammad Tanveer		HM	GHS Roras
37	0722/Infrml/2024	Rizwan Naseem		SST	GGHS Baddoke Cheema
38	0723/Infrml/2024	Ghazallah Mohsin		SST	GGHS Bhakhraiwali
39	0724/Infrml/2024	Abida Parveen		SST	GGHS Taseer Nagar
40	0725/Infrml/2024	Sumaira Naheed		SST	GGHS Kuthiala
41	0726/Infrml/2024	Asia Parveen		SST	GGHS Malkhanwala
42	0727/Infrml/2024	Shazia Sardar		EST	GGHS Kotdina
43	0728/Infrml/2024	Shaista Jabeen		EST	GGHS Dhodowal
44	0729/Infrml/2024	Ghulam Kousar		SST	GGHS Pipliwala
45	0730/Infrml/2024	Abida Parveen		SST	GGHS Majrakalan
46	0731/Infrml/2024	Anam Shahzadi		SSE	GGHSS Wan
47	0732/Infrml/2024	Shama Naz		SST	GGCMHS DhillamBallangan
48	0733/Infrml/2024	Shahida Parveen		SST	GGHS Kopra Khurd
49	0734/Infrml/2024	Afsah Nawaz		HM	GMHS Kotli Noona
50	0735/Infrml/2024	Fakhra Riaz		SST	GGHS Mundair Khurd

4. The Complainant have submitted as under.

"We the headmasters, want to draw your attention on an important issue. It is inhumane and unjust that we are not being provided 25% fax reduction, headmasters and principals of schools in KPK lodged complaint vide Nos. 2387,4131,4132. 4215, 4255/KP/IT/2024 against this injustice and Hon'ble Federal Tax Ombudsman Mr. Asif Mahmood Jah Ordered to provide same facility of reduction to Head Masters and Principals which was also upheld by the president of Pakistan.

In view of the afore-mentioned complaints and subsequent orders it is requested that facility of reduction @25% may please be provided".

5. The Complaints were referred to Secretary Revenue Division for departmental reply/comments in terms of Section 10(4) of the FTO Ordinance read with Section 9(1) of the Federal Ombudsmen Institutional Reforms Act, 2013. In response thereto, the Chief Commissioner-IR, RTO Sialkot vide letter No.1118 and 1222 dated 16.09.2024, and 23.09.2024 submitted as under: -

> "The taxpayers are employed in Education department and working as Principal and headmasters at Education Department. As per Government ofPunjab Education institutions standard operating procedures, which has been provided by the taxpayer, a principal/head teacher is endowed with duty to regularly participate in the teaching work.
>
> "Clause (2) of part III of the 2nd Schedule to Income Tax ordinance, 2001 provides that full time teacher concession shall he 25% Aforesaid clause is reproduced as under.
>
> > (2) The tax payable by a full-time teacher or a researcher, employed in a non-profit education or research institution duly recognized by Higher education Commission, a Board of Education or a University recognized by the Higher Education Commission, including government & research institution shall be reduced by an amount equal to 25% of tax payable on his income from salary.
>
> Provided that this clause shall not apply to teacher of medical profession who derive income from private medical practice or who receive share of consideration received from patients."
>
> Perusal of the Government of Punjab Education institutions standard operating procedures reveals that no explicit definition has been provided in the said code. Therefore, as per job description, complainants may not be treated as "full time teacher" because all the principals and Headmasters are engaged in management and not in full time teaching activities which signifies that they are engaged in partial teaching.
>
> Moreover, no such evidence has been submitted which could specify that Headmasters and Principals fall in category of full-time teacher."

6. The case was fixed for hearing on 23.09.2024Mr. Zaid Naveed, ACIR, Sialkot (DRs) attended the proceedings and pleaded his case as already submitted in parawise comments to the complaint.

7. Tanveer Akhtar, the Complainant attended hearing and pleaded his case on the same grounds already mentioned in his

complaint and he cited the cases where the Honorable FTO's decision against discriminatory treatment in disallowing tax rebate to Headmasters of KPK Schools have been upheld by the President. The case of other Complainants is identical and on the same grounds and arguments.

8. The Complainants in their applications have submitted that Head Mistresses, Headmasters and Principals in teaching category are denied income tax rebate in salary on the ground that they are engaged in managerial duty and not teaching. According to complainants, Principals, Headmasters, or Headmistress of High /Higher, Secondary Schools should have been treated in Teacher Cadre and are entitled to salary rebate. In support of their claim, the complainants have contended that identical fifty (50) complaints were earlier decided by Hon'ble FTC on 26.10.2022 and Findings/Recommendation of FTC have been upheld by Hon'ble President of Pakistan on 25.01.2023.

9. The facility of 25% rebate is not being granted to them on grounds I reasons that the post of Principal / Headmasters is considered in management cadre and rebate is granted to the teaching cadre only. Resultantly, they have been paying the income tax without rebate facility. The truth is that all the Principals and Headmasters are included in the teaching cadre and the posting orders clearly mention that the Principals and Headmasters are from Teaching Cadre and according to the departmental job descriptions, teaching the classes is mentioned for the school Heads besides the administrative and financial job responsibilities.

FINDINGS:

10. Complainant, DR heard and record perused. It is found that the Principals of FG Schools are already enjoying rebate in salary

and now the Headmasters / Principals of Elementary & Secondary Schools of KPK are also enjoying the said rebate in pursuance of Findings/Recommendations dated 26.10.2022 of the Hon'ble FTO. However, the Complainants are denied this concession. Thus, the Complainants have compelling evidence of discriminatory treatment vis-a-vis less deduction of income tax from Principals of F.G Schools/Colleges as well as Elementary & Secondary Education, KPK. This apparent discriminatory treatment of FBR and RTO, Sialkot tantamount to maladministration, defined under Section 2(3)(i)(b) of FTO, Ordinance 2000.

11. Same issue was also raised in identically (20) complaints (Nos. 1434 to 1439, 1441, 1443, 1444, 1473, 1477, 1479, 1481 to 1484, 1486 and 1624/GWL/IT/2024), in the province of Punjab in respect of Principals and Head Masters which were disposed of vide Findings/Recommendation dated 10.05.2024, Later on, the FBR challenged this decision before the President of Pakistan under Section 32 of FTO Ordinance 2000. The Hon'ble President of Pakistan has been pleased to dispose of the representation of FBR on 16.08.2024 in the following terms: -

> **"The learned Commissioner has been very fair in his reply in stating that they continue to perform the teaching functions notwithstanding their promotion as Headmaster etc. When the order of the learned Federal Tax Ombudsman is tested on the touchstone of these facts, it becomes crystal clear that essentially the complainants are performing the functions of the teacher. Even now they are to be treated in any case in the teaching cadre. Hence, no exception can be taken to the impugned order of the learned Federal Tax Ombudsman, which is accordingly maintained. The representations are dismissed."**

12. Thus, in the above referred identical cases President of Pakistan has confirmed FTO, s decision in favour of Head Masters & Principals. Moreover, the Complainants have compelling evidence of discriminatory treatment vis-à-vis less deduction of income tax from Principals of F.G institutions and School Heads of

KPK. <u>This apparently discriminatory treatment of FBR and RTO Sialkot tantamount to maladministration, defined under Section 2(3)(i)(b) of FTO, Ordinance 2000.</u>

RECOMMENDATIONS:

13. FBR to: -

(i) direct the Chief Commissioner-IR, RTO Sialkot to ensure that Principals, Senior Head Masters, Head Masters, Senior Head Mistresses and Head Mistresses of High and Higher Secondary Schools, Sialkot, Punjab, are treated at par with Principals of F.G Institutions as well as School Heads of Elementary & Secondary Education, KPK in all matters relating to tax withholding under Section 149 of Income Tax Ordinance, 2001; and

(ii) report compliance within 45 days.

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

Dated: 4:11: 2024
Akif

Approved for reporting