

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

**PLAINT NOS. 1673, 1674, 1676 TO 1678, 1680, 1770, 1772,
1818 TO 1820, 1822, 1823, 1825, 1865 TO 1868, 1870, 1872,
1873, 1881 TO 1889, 2005, 2014, 2015, 2018, 2020, 2021, 2023,
2025, 2375 & 2379/GWL/IT/2024**

Dated: 08.03.2024, 12.03.2024, 13.03.2024, 14.03.2024, 20.03.2024 & 29.03.2024*
RO, Gujranwala

Mr. Tariq Javed,
Senior Headmaster
Govt. High School, Gujranwala.

...Complainant

Versus

The Secretary,
Revenue Division,
Islamabad.

...Respondent

Dealing Officer	:	Mr. Rana Hassan Akhtar, Advisor
Appraised by	:	Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representative	:	Mr. Tariq Javed, Complainant
Departmental Representative	:	(i) Mr. Qasim Raza, DCIR, RTO Gujranwala (ii) Rana Armaan, ACIR, RTO Gujranwala

FINDINGS/RECOMMENDATIONS

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 Senior Headmaster in Govt. High School, Gujranwala. Before posting as Senior Headmaster, he was entitled to tax rebate available to teachers, however, after being posted as Senior Headmaster, 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 Senior Headmaster. He has further contended that said tax rebate is already allowed to the Principles, Headmasters

*Date of registration in FTO Sectt.

and Headmistress of FG School and School Heads in the province of KPK.

3. Identical complaints have also been filed by following Principals, Senior Head Masters, Head Masters, Senior Head Mistresses, Senior Subject Specialists and Head Mistresses of Elementary & Secondary Education, Gujranwala, tabulated as below:

S. #	Complaint No.	Name of Complainant	CNIC No.	Designation / Place of Posting	Address
1	1673/GWL/IT/2024	Mr. Riaz Ahmed	3410496633401	Principal	Govt. High School, Nizam Abad, Wazirabad
2	1674/GWL/IT/2024	Mr. Muhammad Esmaeel	3410140028337	Senior Headmaster	Govt. High School, Atwa Gujranwala
3	1676/GWL/IT/2024	Mr. Tariq Mahmood	3410180381517	Senior Headmaster	Govt. Hamid Ali Memorial High School Kotli Rustam, Gujranwala
4	1677/GWL/IT/2024	Mr. Muhammad Shafaat	3410126505153	Senior Headmaster	Govt. High School Kashmir Colony, Gujranwala Cantt.
5	1678/GWL/IT/2024	Mr. Imran Ahmad Khan	3410440631977	Senior Headmaster	Govt. High School, Wazirabad
6	1680/GWL/IT/2024	Mr. Muhammad Amjad Khan	341042236865	Headmaster	Govt. High School, Manzoor Abad, Wazirabad
7	1770/GWL/IT/2024	Dr. Muhammad Ali Asad	3410124051923	Principal	Govt. Jinnah Memorial High School, Gujranwala
8	1772/GWL/IT/2024	Mr. Shakeel	3520276869083	Senior Headmaster	Govt. Millat High School, Gujranwala
9	1818/GWL/IT/2024	Ms. Musrat Hussain	3410124985774	Principal	Govt. Girls High School, Mubarak Colony, Gujranwala
10	1819/GWL/IT/2024	Ms. Uzma Naqvi	3540116947528	Headmistress	Govt. Girls High School, Model Satellite Town, Gujranwala
11	1820/GWL/IT/2024	Mr. Yasmeen Khanum	3410124376916	Headmistress	Govt. Girls High School Khokarki, Gujranwala
12	1822/GWL/IT/2024	Ms. Saima Batool	3410452603860	Senior Headmistress	Govt. Girls High School, Hakim Bibi, Gujranwala
13	1823/GWL/IT/2024	Ms. Aqsa Farhatullah	3410141237168	Headmistress	Govt. Girls High School, Jan Bibi, Gujranwala
14	1825/GWL/IT/2024	Ms. Sadia Nasir	3410189359394	Principal	Govt. Girls High School, F.D Islamia, Gujranwala
15	1865/GWL/IT/2024	Mr. Naeem Saber	3840320594535	Principal	Govt. AD Model High School, Gujranwala
16	1866/GWL/IT/2024	Shabbier Hussain	341014815073	Headmaster	Govt. F.C. Islamia High School, Gujranwala
17	1867/GWL/IT/2024	Mr. Muhammad Afzal Mahmood	341012494173	Headmaster	Govt. High School, M.C 13, Gujranwala
18	1868/GWL/IT/2024	Ms. Kalsoom Hina	3210341896462	Senior Headmistress	Govt. Girls High School Tambuli, Gujranwala
19	1870/GWL/IT/2024	Mr. Taqir Abbas	3410368150505	Headmaster	Govt. High School, Kolowala, Gujranwala
20	1872/GWL/IT/2024	Mr. Khalid Mehmood Akhtar	3410124326227	Headmaster	Govt. High School, Gujranwala
21	1873/GWL/IT/2024	Mr. Sanaullah Shaheen	3410305232855	Principal	Govt. High School No.1, Nowshera Virkan, Gujranwala
22	1881/GWL/IT/2024	Ms. Rubina Naaz	3410415504664	Headmistress	Govt. Girls High School, Baddoki Gosaian, Gujranwala Cantt
23	1882/GWL/IT/2024	Ms. Kalsoom Hina	3410123344726	Headmistress	Govt. Girls High School Tamboli, Gujranwala
24	1883/GWL/IT/2024	Ms. Iram Nawaz	3210341896462	Headmistress	Govt. Girls High School Dardian, Gujranwala
25	1884/GWL/IT/2024	Ms. Shama Batool	3530168124336	Headmistress	Govt. Girls High School, Lalupur, Gujranwala
26	1885/GWL/IT/2024	Ms. Hina Ibrar	3410192243842	Headmistress	Govt. Girls High School, Mandhrianwala Kalar, Gujranwala
27	1886/GWL/IT/2024	Dr. Muhammad Shafqat	3410250928145	Senior Headmaster	Govt. High School, Chajoke, Gujranwala

C.Nos. 1673, 1674, 1676 TO 1678, 1680, 1770, 1772, 1818 TO 1820, 1822, 1823, 1825, 1865 TO 1868, 1870, 1872, 1873, 1881 TO 1889, 2005, 2014, 2015, 2018, 2020, 2021, 2023, 2025, 2375 & 2379/GWL/IT/2024

28	1887/GWL/IT/2024	Mr. Muhammad Yaqoob	3410204391619	Senior Headmaster	Govt. High School, Dandian, Gujranwala
29	1888/GWL/IT/2024	Mr. Muhammad Aslam	3410204093449	Headmaster	Govt. High School, Gunna Aur, Gujranwala
30	1889/GWL/IT/2024	Mr. Riaasat Ali Javed	3410288344401	Senior Headmaster	Govt. High School, Kotli Nawab, Gujranwala
31	2005/GWL/IT/2024	Mr. Ashiq Hussain	3410450683677	Principle	Govt. Higher Secondary School No.01 Nage, Gujranwala
32	2014/GWL/IT/2024	Mr. Tariq Mehmood Butt	3410407408677	Senior Subject Specialist	Govt. Higher Secondary School, Ahamd Nager, Gujranwala
33	2015/GWL/IT/2024	Mr. Tariq javed	310238399355	Senior Headmaster	Govt. High School, Gujranwala
34	2018/GWL/IT/2024	Mr. Asif	3410423519667	Headmaster	Govt. Girls High School, Manchar Chatta, Gujranwala
35	2020/GWL/IT/2024	Mr. Arshad Sial	3410402791691	Headmaster	Govt. Girls High School, Kot Inayat Khan, Gujranwala
36	2021/GWL/IT/2024	Mr. Nasir Iqbal	3410423066885	Senior Headmaster	Govt. High School, Hazrat Kailian wala, Gujranwala
37	2023/GWL/IT/2024	Mr. Iftikhar Natt	3410460258763	Headmaster	Govt. Girls High School, F.1 Kathore Kalan,
38	2025/GWL/IT/2024	Mr. Mohsin Asghar	3410486884561	Headmaster	Govt. High School, Gujranwala
39	2375/GWL/IT/2024	Mr. Muhammad Faizan Arshad	3410118213603	Headmaster	Govt. High School, Kot kheonmal, Gujranwalal
40	2379/GWL/IT/2024	Mr. Muhammad Safdar Bhuta	3410422352387	Headmaster	Govt. High School, Wazriabad

4. 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 Gujranwala vide letter No.4108 dated 18.04.2024, submitted that rebate in salary is admissible only to full time teachers or researchers as defined in clause (2) Part-III of 2nd Schedule to Income Tax Ordinance, 2001 and said rebate is not allowed to Principals, Headmasters and Head Mistresses, Subject Specialists etc.

5. The case was fixed for hearing on 22.04.2024 and 24.04.2024 respectively. Mr. Qasim Raza, DCIR and Rana Armaan ACIR, RTO, Gujranwala (DRs) attended the proceedings and pleaded their case as already submitted in parawise comments to the complaint.

Mr. Tariq Javed, 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.

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 FTO on 26.10.2022 and Findings/Recommendation of FTO have been upheld by Hon'ble President of Pakistan on 25.01.2023.

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The facility of 25% rebate is not being granted to them on grounds / reason 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 mandatory for the school Heads besides the administrative and financial job responsibilities.

FINDINGS:

6. 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. Moreover, departmental denial to treat Special Specialists as fulltime teachers is completely unjustified. Irrespective of their designation they are practically fulltime teachers.

The same issues were already raised in identical thirty (30) complaints (Nos. 3667, 3669, 3672, 4115, 4128, 4130, 4131, 4132, 4133, 4215, 4216, 4217, 4218, 4219, 4255, 4256, 4257, 4258, 4259, 4288, 4289, 4290, 4291, 4292, 4387, 4389, 4390, 4391, 4392 & 4393/PWR/IT/2022), in the province of KPK in respect of Principals, Vice Principals and Head Masters which were disposed of vide Findings/Recommendation dated 26.10.2022, 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 25.01.2023 in the following terms: -

"The recommendation of the learned FTO (i) directing the "FBR to direct the Chief Commissioner RTO Peshawar to ensure that Principals, Vice-Principals and Head Masters of Elementary & Secondary Education, Khyber Pakhtunkhwa are treated at par with Principals FG institutions in matters relating to tax withholding u/s 149 of Income Tax Ordinance, 2001" is unassailable in the circumstances of the case. It may be observed that the complainants have produced credible evidence to prove that although the Principals of F.G. Educational Institutions draw more salary than KPK Principals but pay less income tax. This discriminatory treatment meted out to the KPK Principals, Vice Principals and Headmasters viz-a-viz their counterparts of the FGE

Institutions need to be rectified. In such circumstances, the FBR may be directed to look into the matter and treat the complainants at par with their counterparts of the FGE Institutions regarding deduction of Income Tax payable u/s 149 of the Income Tax Ordinance, 2001. The FBR may submit a compliance report in this regard to the FTO Secretariat within 45 days of the receipt of this order. Thus, the representations are liable to be disposed of accordingly".

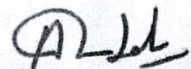
Accordingly, the Hon'ble President, as per his decision above, has been pleased to dispose of the representation of the FBR . RTO, Peshawar in compliance has taken up the matter with Accountant General, Khyber Pakhtunkhwa to facilitate eligible employees. therefore, the instant twenty (20) complaints as tabulated in para 3 above are also disposed of in the same manner.

7. The Complainants have compelling evidence of discriminatory treatment vis-à-vis less deduction of income tax from Principals of F.G College and School Heads of KPK. This apparently discriminatory treatment of FBR and RTO, Gujranwala tantamount to maladministration, defined under Section 2 (3) (i) (b) of FTO, Ordinance 2000.

RECOMMENDATIONS:

8. FBR to:-

- (i) direct the Chief Commissioner-IR, RTO Gujranwala to ensure that Subject Specialists, Principals, Senior Head Masters, Head Masters, Senior Head Mistresses and Head Mistresses of Elementary & Secondary Schools, Gujranwala, Punjab, are treated at par with Principals of FG 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: 10.5.2024
Akif

Approved for reporting


Director
FTO Secretariat
Islamabad