

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

**COMPLAINT NOs. 2362, 2363, 2365, 2366, 2368, 2370, 2372,
2373, 2374, 2375, 2376, 2377, 2378, 2393, 2530, 2839, 3207, 3208,
3209, 3210, 3211, 3212, 3214, 3215, 3217, 3219, 3220, 3531 &
3536/ABD/IT/2023**

Dated: 02.05.2023, 09.05.2023, 18.05.2023, 05.06.2023^{14.06.2023*} R.O. Abbottabad.

Mr. Hameed Ullah,
Head Master (GHS) Burhaj,
Abbottabad. ... Complainant

Versus

The Secretary
Revenue Division
Islamabad. ... Respondent

Dealing Officer : Mr. Ziauddin Wazir, Advisor
Appraisal by : Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representatives : Mr. Hameed Ullah, Complainant
Departmental Representative : Mr. Muhammad Abdullah, DCIR, RTO,
Abbottabad.

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 Income Tax Ordinance, 2001.

2. Facts of the case are that the Complainant is presently posted as Head Master in Govt High School Burhaj, Abbottabad. Before posting as Principal, as a teacher he was enjoying tax rebate while declaring salary income, however, after posting as Principal, he has been deprived of said rebate. He has prayed to be allowed rebate in salary as he is still categorized in **Teaching Cadre** by Provincial Government despite being posted as Principal.

3. Identical complaints have been filed by Principals, Vice Principals and Head Masters of Elementary & Secondary Education

Khyber Pakhtunkhwa, tabulated below:

* Date of registration in FTO Sectt.,

C.Nos.2362,2363, 2365, 2366, 2368,2370,2372,2373, 2374,
2375,2376,2377,2378,2393,2530,2839,3207,3208,3209,3210, 3211, 3212, 3214, 3215, 3217,
3219,3220, 3531 & 3536/ABD/IT/2023)

S.No.	COMPLAINT NO.	NAME OF COMPLAINANT	CNIC NO.	DESIGNATION/PLACE OF POSTING
1	2362/ABD/IT/2023	Mr. Hameed Ullah	16202-0941804-5	Head Master/Govt High School Bhuraj, Abbottabad
2	2363/ABD/IT/2023	Fazal Maula	17101-0303407-1	Head Master/GHS Mir Summa Karaga, Abbottabad
3	2365/ABD/IT/2023	Dr. Tahir Javed	13101-6772395-7	Principal/GHSS Nawanshehr, Abbottabad
4	2366/ABD/IT/2023	Abdul Wadood	13101-3396756-7	Vice Principal/GHSS Nawanshehr, Abbottabad
5	2368/ABD/IT/2023	Abdul Salam	13504-2204071-5	Principal/GHSS KokalBarseen, Abbottabad
6	2370/ABD/IT/2023	Tariq Munir	13101-0904001-1	Principal/GHS, Dhamtoor, Abbottabad
7	2372/ABD/IT/2023	Muhammad Ayub	13504-2214836-1	Principal/GHS BandiParaw, Mansehra
8	2373/ABD/IT/2023	Qazi Muhammad Amir Khan	13101-0829865-1	Principal/GHS No.1, Havelian, Abbottabad
9	2374/ABD/IT/2023	Dr. Shafqat Khan	13101-5678259-1	Principal/GHSS Harno Azizabad, Abbottabad
10	2375/PWR/IT/2023	Muhammad Farooq	13101-0994457-5	Principal/GHS Paitan Khurd, Abbottabad
11	2376/ABD/IT/2023	Amin Dad	1301-0876983-3	Principal/GHS Chitta Batta, Mansehra
12	2377/ABD/IT/2023	Muhammad Anwar	37405-4118629-5	Principal/GHSS Lora, Abbottabad
13	2378/ABD/IT/2023	Khan Afsar Khan	13101-4283271-3	Principal/GHS Khuthwal, Abbottabad
14	2393/ABD/IT/2023	Riffat Aziz	13501-7127038-2	Principal/GHSSGhari Habibullah, Balakot, District Mansehra
15	2530/ABD/IT/2023	Iftikhar Ahmad	13503-6516586-5	Principal/GHS Khaki, Mansehra
16	2839/ISB/IT/2023	Zia Ul Islam	13503-0600780-3	Principal/GHS, Parian, Mansehra
17	3207/ABD/IT/2023	Zahid Ali	13101-3910724-9	Vice Principal/GHSS Bagnotar Abbottabad
18	3208/ABD/IT/2023	Zulfiqar Ahmad	13101-7861413-7	Principal GHSS Mohrl Bed Bhenn, Abbottabad
19	3209/ABD/IT/2023	Dr. Muhammad Javed	13101-2405440-1	Principal/GHS, Sheikh UIBandi, Abbottabad
20	3210/ABD/IT/2023	Qamar Mehmood	13101-5583965-5	Vice Principal/GHS No.1 Herlian, Abbottabad
21	3211/ABD/IT/2023	Muhammad Amir Ali	13101-7135880-9	Headmaster/GHS Hari Khater, Abbottabad
22	3212/ABD/IT/2023	Muhammad Tariq	13101-0852405-9	Headmaster/GHS
23	3214/ABD/IT/2023	Raza Muhammad	13101-0919622-1	Principal/GHS Lasean Thakral, Mansehra
24	3215/ABD/IT/2023	Muhammad Iqbal Khan	61101-1806369-7	Principal/GHSS Lasean Thakral Mansehra
25	3217/ABD/IT/2023	Mr. Azhar	13302-0413067-1	Vice Principal/Govt, Centennial Model High

				School Turbela Township, Haripur
26	3219/ABD/IT/2023	Ms. Farah Naz	13302-8886652-2	Vice Principal/GHSS Havelian
27	3220/ABD/IT/2023	Abdul Waheed	13101-0979953-1	Principal/GHS Mirpur, Abbottabad
28	3531/ABD/IT/2023	Mr. Tariq Samar	N/A	Principal/Govt High School No. 04 Abbottabad
29	3536/ABD/IT/2023	Muhammad Naseem Khan	13503-5456523-3	Principal/GHSS Bhaali, Mansehra

4. The Complaint was 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 Abbottabad vide letter No.12101 dated 15.05.2023, submitted comments/reports, are placed on record.

5. The case was fixed for hearing on 25.05.2023, Mr. Hameed Ullah, Complainant and Mr. Muhammad Abdullah, DCIR, RTO, Abbottabad (DR) attended. The complainant in his application has submitted that Headmasters, 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 complainant, Principal of College or Higher Secondary School should have been treated in Teacher Cadre and entitled to salary rebate. In support of his claim, the complainant contented that identical thirty (30) complaints are decided by Hon'ble FTO on 26.10.2022. Findings/Recommendation of FTO are upheld by Hon'ble President of Pakistan on 25.01.2023.

6. DR reiterated the contents of amendment vide Finance Act, 2013, clause (2) Part-III of 2nd Schedule to FTO 2001 which defines full time teacher as a person employed purely for teaching and not performing any administrative or management job i.e. Principal, Headmasters, Directors, Vice Chancellor, Chairman, Controller etc.

After amendment, the complainant's case is not covered under facility of rebate in salary at the rate of 25%. DR did not know about the order of Hon'ble President of Pakistan of 25.01.2023, upholding the Findings/Recommendations of FTO dated 26.10.2022.

FINDINGS:

7. Complainant, DR heard, record perused. It is found that
- (i) the categorization in Management & Teaching Cadres are issued under KPK Province's Civil Servant (Appointments Promotion & Transfer) Rules 1989. As against categorization by KPK's Education Department, FBR's placing them in teaching category is strongly agitated by complainants being misconceived and discriminatory to treat same category's taxpayers differently. But as a matter of fact, in tax matters FBR's laws being special laws override all other laws/instructions etc.
 - (ii) The complainants in similar complaints, previously disposed of by this office had highlighted discrimination in deduction of income tax, from salaries of Principals of F.G Schools vis-à-vis Principals of High Schools, KP, Education department. The comparison shows that while Principals of FG Schools are enjoying rebate the complainants were denied this concession. The complainants had compelling evidence of discriminatory treatment. This apparently discriminatory treatment of FBR and RTO, Abbottabad tantamount to maladministration, defined under Section 2 (3) (i) (b) of FTO, Ordinance 2000 was established in earlier complaints in identical cases.

This office has earlier disposed of 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 respect of Principals, Vice Principals and Head Masters raising same issues vide Findings/Recommendation dated 26.10.2022, which was challenged by FBR before 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 needs 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".

The instant twenty-nine (29) complaints as tabulated in para 3 above are also disposed of in same manner.

RECOMMENDATIONS:

8. FBR to-

- (i) direct the Chief Commissioner RTO Abbottabad 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; and
- (ii) report compliance within 45 days.


 (Dr. Asif Mahmood Jah)
 Federal Tax Ombudsman

Dated: 21.6.2023

Approved for reporting


 Director
 FTO Secretariat
 Islamabad