

**THE FEDERAL TAX OMBUDSMAN
ISLAMABAD**

**COMPLAINT NOS. 6841 TO 6845, 6911, 6912, 6913, 6915, 6956
TO 6965, 7109, 7129, 7130, 7133, 7135, 7240, 7242, 7243, 7244,
7247, 7339 TO 7344/PWR/IT/2023**

&

0048 TO 0061 & 0063/PWR/IT/2024

Dated: 23.11.2023, 27.11.2023, 28.11.2023, 06.12.2023, 07.12.2023, 13.12.2023, 19.12.2023,
02.01.2024* R.O. Peshawar

Mrs. Farida Jabeen,
Principal (GGHS) Manga,
Mardan.

... Complainant

V e r s u s

The Secretary,
Revenue Division,
Islamabad.

... Respondent

Dealing Officer	:	Mr. Ziauddin Wazir, Advisor
Appraisal by	:	Mr. Muhammad Tanvir Akhtar, Advisor
Authorized Representatives	:	Mrs. Farida Jabeen, Complainant
Departmental Representative	:	Mr. Muhammad Ashraf, DCIR, RTO, Peshawar.

FINDINGS/RECOMMENDATION

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 Principal in GGHS, Manga, Mardan. Before posting as Principal, she was entitled to tax rebate, however, after posting as Principal, she has been deprived of said rebate and prayed to allow rebate in salary as she is still categorized in **Teaching Cadre** by Provincial Government despite being posted as Head Mistress.

3. Identical complaints have been filed by Principals, Vice Principals and Head Masters Head Mistress of Elementary & Secondary Education Khyber Pakhtunkhwa, tabulated below:

* Date of registration in FTO Sectt.,

6841 TO 6845, 6911, 6912, 6913, 6915, 6956 TO 6965,
7109, 7129, 7130, 7133, 7135, 7240, 7242, 7243, 7244, 7247,
7339 TO 7344/PWR/IT/2023 & 0048 TO 0061 & 0063/PWR/IT/2024

S.No.	COMPLAINT NO.	NAME OF COMPLAINANT	CNIC NO.	DESIGNATION/PLACE OF POSTING
1	6841/PWR/IT/2023	Farida Jabeen	16101-1084511-6	Principal/GGHS Manga, Mardan
2	6842/PWR/IT/2023	Rozina Bashir	14301-1970888-4	Headmistress/ GGHS Ghurzai Payyan, Kohat
3	6843/PWR/IT/2023	Shaista Parveen	14301-2239012-6	Principal/GGHSS Babri Banda, Kohat
4	6844/PWR/IT/2023	Bahadur Khan	16102-9653039-1	Head Master/GHS Koper Takht Bhai, Mardan
5	6845/PWR/IT/2023	Rozina Begum	14301-8731771-8	Principal/Govt. Girls Centennial High School, Kohat
6	6911/PWR/IT/2023	Raham Wahid	15402-1415775-5	Head Master/GHS Zalam Kot District, Malakand
7	6912/PWR/IT/2023	Muhammad Saddiq Khan	11101-1489571-1	Principal/GHSS Mullazai, Tank
8	6913/PWR/IT/2023	Fateh Ullah Khan	11201-4435566-3	Principal/GHSS Imam, Tank
9	6915/PWR/IT/2023	Noor Hayat	15402-7085288-5	Principal/GHSS Khar District, Malakand
10	6956/PWR/IT/2023	Qayyum Nawaz	12101-0897579-3	Principal/Govt. Shaheed Sher Nawaz Centennial Model High School, Tank
11	6957/PWR/IT/2023	Saifullah Khan	11101-1443321-9	Principal/GHS Darish Khel, Karak
12	6958/PWR/IT/2023	Sher Nawaz	11201-0333627-1	Principal/GCMHS No.1, Lakki Marwat
13	6959/PWR/IT/2023	Mukhtar Gul	15402-1402229-1	Principal/GHSS Kot, Malakand
14	6960/PWR/IT/2023	Riaz Gul	14301-1932324-5	Principal/GHSS Tappi, Kohat
15	6961/PWR/IT/2023	Hamid Hussain	14101-0782537-5	Principal/GHSS Alizai, Kurram
16	6962/PWR/IT/2023	Noor Ul Wahab	16202-0997510-3	Head Master/GHS No.1, Swabi
17	6963/PWR/IT/2023	Attau Rehman Qureshi	11101-1447819-3	Head Master/GHS Mandew, Bannu
18	6964/PWR/IT/2023	Amanullah Khan	11101-1429403-5	Head Master/GHS Kotka, Bannu
19	6965/PWR/IT/2023	Sabihullah Khan	11101-1507310-7	Head Master/GHS Sikandar, Bannu
20	7109/PWR/IT/2023	ABid Ullah Shah	11101-1432546-7	Principal/GHSS Ismail Khel, Bannu
21	7129/PWR/IT/2023	Muhammad Noor Rehman	11101-4212201-3	Headmaster/GHS Koti Sadat Bannu
22	7130/PWR/IT/2023	Shahid Ullah Khan	11101-219459-1	Headmaster/GHS Nemat Garh Bannu
23	7133/PWR/IT/2023	Zahid Gul	11101-1477806-1	Headmaster/GHS Multani Landidak, Bannu
24	7135/PWR/IT/2023	Saeedullah Khan	11101-148700-5	Headmaster/GHS Dhandi Wazir, Bannu
25	7240/PWR/IT/2023	Atlas Noor Khan	11101-1463540-1	Principal/GHS Jan Killa, Bannu
26	7242/PWR/IT/2023	Aziz Ur Rahman	11201-0492759-5	Principal/GHSS Doaba, Hangu

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27	7243/PWR/IT/2023	Amjad Khan	11101-1429350-9	Principal/GHSS Akbar Zaman Baka Khel, Bannu
28	7244/PWR/IT/2023	Akhtar Nawaz Khan	11101-1464606-7	Principal/GHS Hassan Khel Jaffar Khan, Bannu
29	7247/PWR/IT/2023	Balqiaz Khan	11101-1483070-3	Principal/GHSS Lalozi, Bannu
30	7339/PWR/IT/2023	Ghulam Daud Khan	11101-1458348-7	Principal/GHS Miera Khel, Bannu
31	7340/PWR/IT/2023	Muhammad Ishaq	11101-4542581-1	Principal/GHS Kotka Ghazi Marjan, Bannu
32	7341/PWR/IT/2023	Hidayatullah	11101-6979184-7	Principal/GHS Hakim Haved, Bannu
33	7342/PWR/IT/2023	Hayatullah	11101-1519224-7	Principal/GHS Tor Kakki, Bannu
34	7343/PWR/IT/2023	Fidaullah Khan	11201-0374311-9	Principal/GHS Gul Zaman Ghriwala, Bannu
35	7344/PWR/IT/2023	Ghulam Riaz Khan	11101-1321367-7	Principal/GHSS Mi Khel, Bannu
36	0048/PWR/IT/2024	Islam Ali	11201-0365585-7	Principal/GHS Azim Killa Bannu
37	0049/PWR/IT/2024	Jamil Rehman	11101-3417852-1	Principal/GHS Dardariz Bannu
38	0050/PWR/IT/2024	Khalil Khan	11101-3489389-5	Principal/GHS Bazar Ahmad, Bannu
39	0051/PWR/IT/2024	Maqsood Ahmad Khan	11101-2411306-1	Principal/GHS Almomin Janikhel, Bannu
40	0052/PWR/IT/2024	Muhammad Nawaz	11101-1009030-9	Principal/GHS Sadullah SDW, Bannu
41	0053/PWR/IT/2024	Niaz Ali Khan	11101-1523326-3	Principal/GHSS Mamkhel Banuchi, Bannu
42	0054/PWR/IT/2024	Qamar Zaman	11101-1559970-5	Principal/GHSS Takhtikhel Bakakhel, Bannu
43	0055/PWR/IT/2024	Muhammad Rauf Khan	11101-1458607-1	Principal/GHS No.1, Bannu
44	0056/PWR/IT/2024	Razaullah Khan	11101-1489225-1	Principal/GHS No.4, Bannu
45	0057/PWR/IT/2024	Rukhsar Ali Khan	11101-1464176-3	Principal/GHSS Khurdri M Khel, Bannu
46	0058/PWR/IT/2024	Saifu Rehman	11201-0343108-5	Principal/GHSS Amandi Umar Khan, Bannu
47	0059/PWR/IT/2024	Sairullah Shah	11101-1476490-1	Principal/GHSS Mali Khel Jani, Khel, Bannu
48	0060/PWR/IT/2024	Sajjad Ahmad	11101-1503334-5	Principal/GHSS Nurar, Bannu
49	0061/PWR/IT/2024	Samiullah Khan Dawar	21505-4397858-9	Vice Principal/GHSS Eidak, Mirali
50	0063/PWR/IT/2024	Noor Wali Dad Khan	11101-1452685-9	Vice Principal/GHSS Nadir Bodin Khel Bannu

4. Complaints are 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 Peshawar vide letter No. 1372 dated 14.12.2023, reported 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 read with Circular No.6 of 2013 dated 19.07.2013 and said rebate is not allowed to Principals, Headmasters etc.

5. The case was fixed for hearing on 13.12.2023, Mrs. Farida Jabeen, (Complainant) did not appear. Muhammad Ashraf, DCIR, RTO, Peshawar (DR) attended. The complainant in her 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 her claim, the complainant contented 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.

6. DR reported that in compliance of the Findings/Recommendations of FTO dated 26.10.2022, RTO, Peshawar has written to Accountant General (AG) KPK to comply directions of Hon'ble FTO and facilitate eligible employees.

FINDINGS:

7. Complainant, DR heard, record perused. It is found that;

The complainant in similar complaint, previously disposed of by this office had given comparison of deduction of income tax, from salary of Principals of F.G Schools vis-à-vis Principals of High School, KPK. The comparative details, confirms that while Principals of FG Schools are

enjoying rebate in salary, the complainant was denied this concession. Thus, the complainant has compelling evidence of discriminatory treatment vis-à-vis less deduction of income tax from Principals of F.G schools/Colleges. This apparent discriminatory treatment of FBR and RTO, Peshawar tantamount to maladministration, defined under Section 2 (3) (i) (b) of FTO, Ordinance 2000.

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”. RTO, Peshawar in compliance has taken up the matter with Accountant General, Khyber Pakhtunkhwa to facilitate eligible employees, therefore, the instant fifty (50) complaints as tabulated in para 3 above are also disposed of in same manner.

RECOMMENDATIONS:

8. FBR to-

- (i) 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 all matters relating to tax withholding u/s 149 of Income Tax Ordinance, 2001, especially; rebate admissible to full time teacher or a researcher, under clause (2) Part-III of Second Schedule to 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: 23/1/2024

Akif

Approved for reporting