

25.04.2019


None present on behalf of the applicant. Notice be issued to applicant and his counsel for attendance and arguments on restoration application for 12.07.2019 before D.B.



(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

12.07.2019

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 26.09.2019 before D.B. *Notice of The application be also issued to the respondents for the date stated.*



Member


Member

26.09.2019

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Johar, SCT for the respondents present. The court time is about to over but non-appeared on behalf of the appellant nor the appellant present in person, therefore, the instant service appeal is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED
26.09.2019






(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

FORM OF ORDER SHEET

Court of _____

Misc. Application No. 414/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27/11/2018	<p>The application for restoration of appeal no. 239/2013 submitted by Mr. Umer Farooq through Mr. L. Nawab Ali Noor Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;">  REGISTRAR 27/11/18 </p> <p style="text-align: center;">This Misc. application be put up before <input checked="" type="checkbox"/> Bench on <u>8.2.2019</u></p> <p style="text-align: right;">  CHAIRMAN </p> <p>08.02.2019</p> <p style="text-align: center;">None for the applicant present. Mr. Muhammad Riaz, Asst: AG for respondents present. Case to come up for arguments on restoration application on 25.04.2019 before D.B.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div style="text-align: center;">  (Ahmad Hassan) Member </div> <div style="text-align: center;">  (M. Amin Khan Kundi) Member </div> </div>

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR
Roer Pakhtykhwa
Service Tribunal

Restoration application NO ⁴¹⁴ of 2018 in S. Appeal No. 239 of 2018.

Diary No. _____

Dated _____

1. Umer Farooq

.....(Applicant/ Appellant)

VERSUS

1. DCO Distt swat and others.

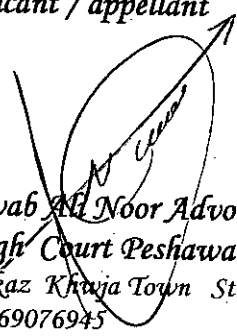
.....(Respondents)

INDEX

S.No.	Description of Documents	Annexure	Pages
1.	Restoration application		1-3
5	Copy of the order dated 22.11.18	A	4
15	Waklat Nama		5

Applicant / appellant

Through


L. Nawab Ali Noor Advocate
High Court Peshawar.
Bacha Khan Markaz Khatwa Town St.C-1
03469076945

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR.

Restoration application NO ⁴¹⁴ of 2018 in S. Appeal No. 239 of 2018.

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 2169
Dated 27/11/2018

1. Umer Farooq

.....(Applicant/ Appellant)

VERSUS

1. DCO Distt swat and others.

.....(Respondents)

Application with humble request to set aside the dismissal in default / non prosecution dated 22.11.2018 aside through restoring service appeal No. 239/13 titled Umer Farooq vs secretary to DCO Distt Swat & others set it for disposal on merits in accordance with law.

Most respectfully submitted:

1. That the cited S. appeal was pending before this Honorable court for 22.11.2018.
2. That as the counsel for appellant reached from Islamabad at 11.30 to peruse the case in question along with others S. appeals titled Noor Ali Shah and others inspite of the fact that brother of counsel of appellant was operated open heart surgery was in Kalsoom international Hospital Islamabad and unfortunately appellant got accident prior informed his counsel.
3. That on 22.11.18 when the appellant counsel got reached the honorable tribunal same was dismiss due to non prosecution and rest of the cases adjourn.

9

THE appellant , having no other adequate remedy , seeks the indulgence of this Honorable court for setting dismissal dated 22.11.2018 aside by restoration of appeal , inter alia , on these.

GROUND.S.:

- A. That the order of this Honorable tribunal in hurry because counsel for appellant reached at 11.30 being his brother operated open heart Surgery as well as appellant by self didn't appear due to accident hence dismiss in default/ for non prosecution , to be set aside the same .
- B. That with great respect this honorable court may kindly be noted that not appearing of the counsel of appellant before this Honorable court in time of dismissal was not deliberately but due to reason mentioned above.
- C. That not appearing was just an accident and unfortunate accident not only for the counsel of appellant as well as for appellant because reason mentioned above dismissal was bad fortune not more than this and same time counsel by self approached the court at 11.30 and contested other cases titled Noor Ali Shah and others vs Govt.
- D. That for the reasons listed hereinabove, the appellant had no knowledge whatever about the harsh treatment of this Honorable court imposing heavy & harsh punishment because non appearance of appellant or his counsel before this Honorable tribunal was neither deliberate , nor intentional at all but due to reasons mentioned .
- E. That with great respect this honorable court may be noted that it was guenon reason of the counsel at specific time .
- F. That valuable rights of applicant are involved with this service appeal he is very much interested to peruse it.
- G. That the order needs to be reconsidered in light of law and case law laid down by the august superior courts of this country & application is well within time.

H. That this honorable court is possessed of ample powers to set such dismissal in default or for that matter owing to non prosecution aside by restoring the service appeal in order to set it for disposal after hearing pro and contra arguments on merits in accordance with law, as the superior courts have emphasized upon decision of cases on merits rather than mere technicalities.

IT is therefore humbly prayed that on acceptance of this application, this Honorable tribunal may very graciously be pleased to :

1. set the dismissal dated 22.11.2018 aside through restoring service appeal and the same for arguments and disposal on merits and in accordance with law.

Dated: .11.2018

Through

Applicant/appellant

L. Nawab Ali Noor
Advocate High Court Peshawar.
Khwaja town Bucha Khan Markaz St C-1 03469076945

Certificate:
Certified that all the contents of the above mentioned application are true & correct to the best of my knowledge and belief.

Counsel.

(4)



BEFORE THE SERVICE TRIBUNIL K.P.K PESHAWAR.

Service appeal NO. ²³⁹ OF 2013.

1. Umer Farooq S/O Nowsherwan PST GPS Shalkyar Bashigram R/O Bashigram, Tehsil Behrain.

(Appellant)

VERSUS

1. District Coordination Officer District Swat.

N.W.F. Province
113
11-1-2013

Dist Education Officer Dist Swat

(Respondents)

Appeal under section 4 of the N.W.F.P, Service tribunal Act 1974 against the termination order dated 11.9.2012 through which the appellant was dismissed from the service by the respondents, received by the applicant on 18.9.2012.

22.11.2018

Appellant absent. Learned counsel for the appellant absent. The present case pertains to the year 2013. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Mr. Muhammad Amin Deputy D.O representative of the respondent department also present, however no one appeared on behalf of appellant despite repeated calls. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

[Signature]
Member

Certified to be true copy
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

[Signature]
Member

ANNOUNCED
22.11.2018

Date of Presentation of Application 23-11-18
Number of Words 4.00
Copying Fee 4.00
Urgent 2.00
Total 6.00
Name of Copyist [Signature]
Date of Completion of Copy 23-11-18
Date of Delivery of Copy 23-11-18

2018-11-23 10:10:00

2018-11-23 10:10:00
2018-11-23 10:10:00
2018-11-23 10:10:00

بعدالت

Before Mr. Senior
Tribunal W.P.D

Penna

Appellant
Applicant

2 منجانب

بنام

Umar Farooq

vs

DCO Dist Sual

روانہ

مورثہ

مقدمہ

دعوی

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام سروس سرسبز سٹیٹ ٹریڈنگ کورپوریشن کے لئے اہل انوار اہل نوکر اور اہل
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ اعلیٰ ہے جو اب دہی اور اقبال دعوی اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعوی اور درخواست ہر قسم کی تصدیق
زر اس پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا غیر ایسی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تعمیر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم

27 ماہ

20

نومبر

العبد گواہ العبد

مقام سروس سرسبز سٹیٹ ٹریڈنگ کورپوریشن کے لئے منظور ہے۔

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR.

Restoration application NO ⁴¹⁴ of 2018 in S. Appeal No. 239 of 2018.

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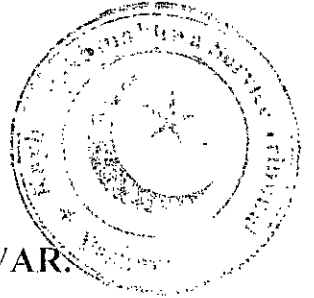
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Service Tribunal,
Peshawar

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