

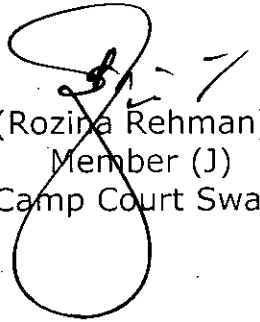
O R D E R  
04.10.2022


Learned counsel for the petitioner present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments on restoration application heard and record perused.

The Service Appeal bearing No. 283/2020 titled "Dawood Khurshid Versus Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar and three others", was dismissed in default vide order dated 05.07.2022. According to learned counsel for the petitioner, he was busy in the august Peshawar High Court, Peshawar as well as Principal bench of this Tribunal at Peshawar, therefore, he could not appear before the Tribunal on the said date. The petitioner has submitted an application for restoration of appeal on 22.07.2022, which is well within time. The application for restoration of service appeal is supported by duly sworn affidavit. Law also favours adjudication on merit by avoiding technicalities.

The application in hand is, therefore, accepted and Service Appeal bearing No. 283/2020 stands restored on its original number. To come up for arguments on 09.11.2022 before the D.B at Camp Court Swat.

ANNOUNCED  
04.10.2022

  
(Rozina Rehman)  
Member (J)  
Camp Court Swat

  
(Salah-Ud-Din)  
Member (J)  
Camp Court Swat


05.09.2022

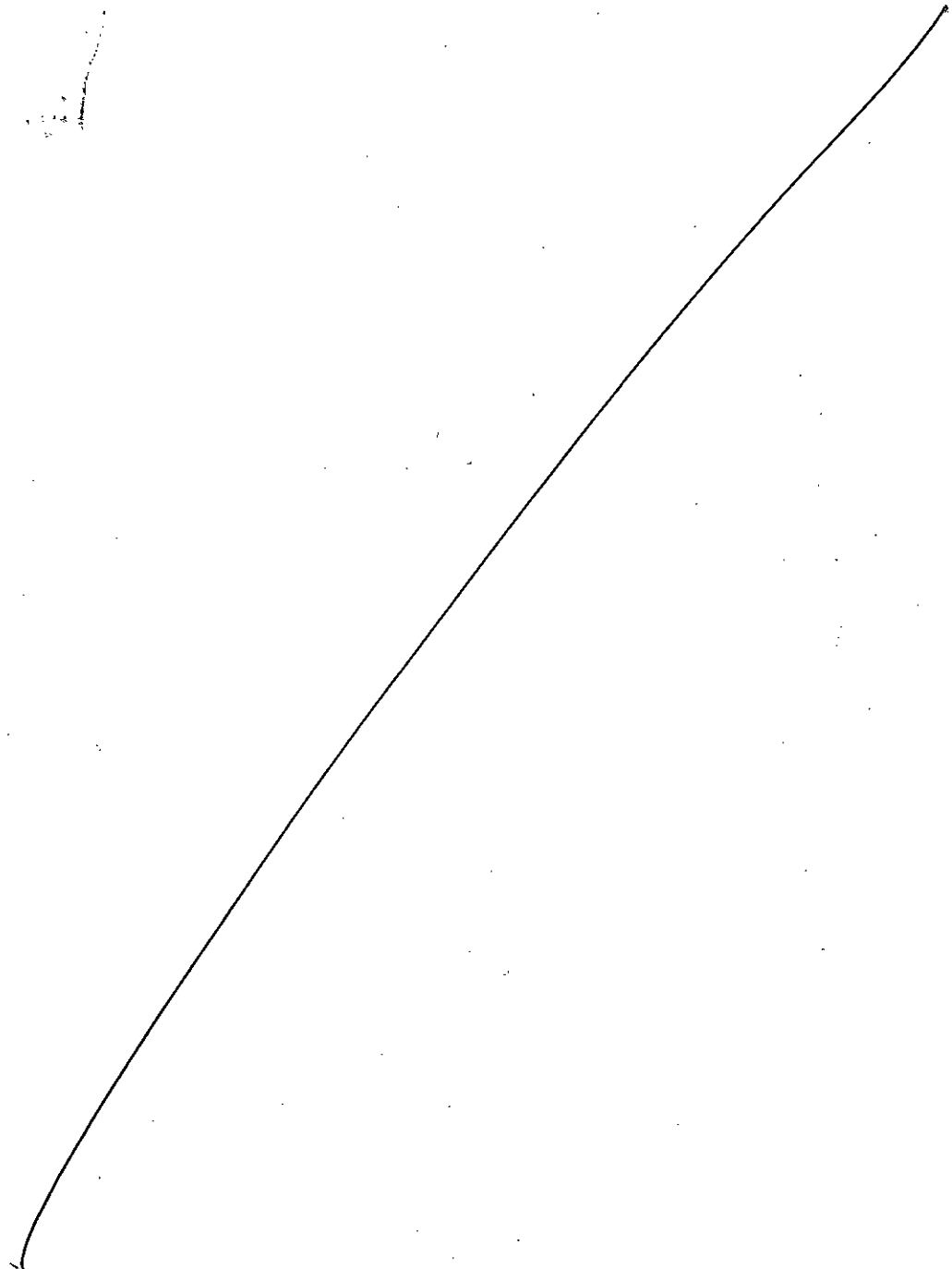
Clerk of learned counsel for the applicant present. Notice  
be issued to the respondents for submission of reply as well as  
arguments on restoration application on 04.10.2022 before the  
D.B at Camp Court Swat.

7.

*original record be requisitioned  
for the date fixed.*

(Mian Muhammad)  
Member (Executive)  
Camp Court Swat


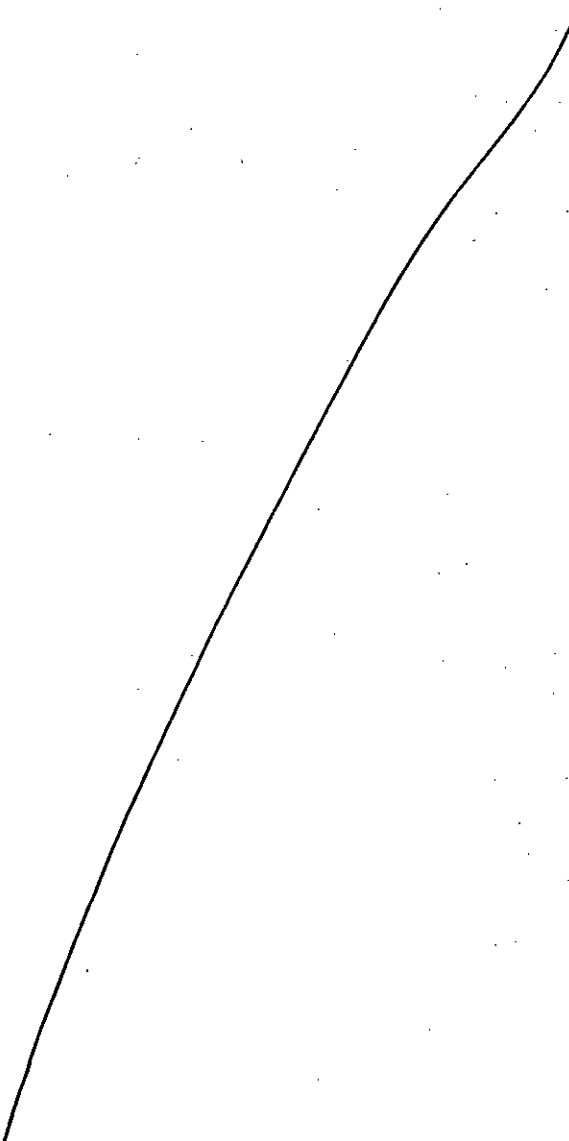
  
(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Swat



Form-A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Restoration Application No. 411/2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.07.2022	<p>The application for restoration of appeal No. 283/2020 submitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for hearing before touring Division Bench at Swat on <u>5-9-22</u>. Original file be requisitioned. Notices to the applicant and his counsel be also issued for the date fixed.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p> 

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

*Restoration Appl. no 411/2022*

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

DAWOOD KHURSHID

VS

EDUCATION DEPT.

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0334-5277323

APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK  
ADVOCATE

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

Restoration Appli. no. 411/2022

CM. NO. \_\_\_\_\_/2022

Khyber Pakhtunkhwa  
Service Tribunal

IN

APPEAL No. 283/2020

Diary No. 759

Dated 22/7/2022

**DAWOOD KHURSHID**

**VS**

**EDUCATION DEPT.**

**APPLICATION FOR RESTORATION OF THE ABOVE**  
**MENTIONED APPEAL**

**R/SHEWETH:**

- 1- That the above titled service appeal was pending adjudication before this Honorable tribunal which was fixed on 05-07-2022.
- 2- That the counsel for the petitioner was busy in The Peshawar High Court at Peshawar as well as was engaged at principal bench of this honourable tribunal at Peshawar. That it is also worth mentioning that the subject appeals were not noted in the diary on that date.
- 3- That the mentioned service appeal was dismissed for non-prosecution vide order dated 05.07.2022. Copy of the order sheet 05.07.2022 attached as annexure .....A.
- 4- That as the matter pertaining in the instant appeal has not been decided on merit, therefore the mentioned service appeal may be restored for the sack of justice.
- 5- That there is no legal bar in restoring the mentioned appeal.

***It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.***

Dated:

PETITIONER/APPLICANT

Through:

**NOOR MUHAMMAD KHATTAK**  
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

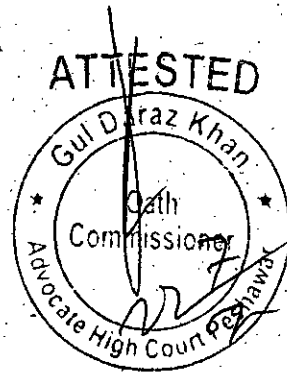
DAWOOD KHURSHID

VS

EDUCATION DEPT.

**AFFIDAVIT**

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

A (3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 283 /2019

Slary No. 294

Dated 09/11/2020

Mr. Dawood Khurshid, PST (BPS-12),  
GPS Qala Chukyatan, District Dir Upper.....



**APPELLANT**

**VERSUS**

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

**RESPONDENTS**

**APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN  
BPS-12 w.e.f. 07-04-1996 I.E. FROM THE DATE OF INITIAL  
APPOINTMENT TO THE POST OF PST AND AGAINST NOT  
TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE  
APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY  
DAYS.**

**PRAYER:**

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 07-04-1996 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day  
Registrar

**R/SHEWETH:  
ON FACTS:**

**Brief facts giving rise to the present appeal are as under:**

- 1- That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 07-04-1996 as stop gap arrangement. ( Copy of the appointment order is attached as annexure..... A).

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That it is also worth mentioning, that on promulgation of KP Sacked Employee Act, 2012 appellant submitted an application for his reinstatement being covered under the said law but the same was not considered, hence the appellant filed writ petition no. 685/2017 before Peshawar high court Mingora Bench, which was

Certified in No 2-ire co  
Khyber Pakhtunkhwa  
Service Tribunal

4



07.06.2022

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up for arguments on 05.07.2022 before D.B at camp court Swat.

*[Signature]*

(Mian Muhammad)  
Member (E)  
Camp Court Swat

*[Signature]*

(Kalim Arshad Khan)  
Chairman  
Camp Court Swat

05.07.2022

Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith Nasim Khan Section Officer for respondents present.

Case was called time and again but neither the appellant nor his counsel turned up till rising of the Bench. Consequently, instant service appeal is hereby dismissed in default for non-prosecution. Parties are left to bear their own costs. File be consigned to the record room.

Announced.  
05.07.2022

*[Signature]*

(Fareeha Paul)  
Member(E)  
Camp Court, Swat

*[Signature]*

(Rozina Rehman)  
Member(J)  
Camp Court, Swat

05/7/22

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service & Revenue  
Department

800  
10/-  
10/-  
20/7/22  
20/7/22



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

R. A. No. 411/2022  
CM. NO. \_\_\_\_\_/2022

IN  
APPEAL No. 283/2020

**DAWOOD KHURSHID VS EDUCATION DEPT.**

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**APPELLANT**

**THROUGH:**  
**NOOR MUHAMMAD KHATTAK**  
**ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

DAWOOD KHURSHID

VS

EDUCATION DEPT.

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MENTIONED APPEAL**

**R/SHEWETH:**

- 1- That the above titled service appeal was pending adjudication before this Honorable tribunal which was fixed on 05-07-2022.
- 2- That the counsel for the petitioner was busy in The Peshawar High Court at Peshawar as well as was engaged at principal bench of this honourable tribunal at Peshawar. That it is also worth mentioning that the subject appeals were not noted in the diary on that date.
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*It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.*

Dated:

PETITIONER/APPLICANT

Through:

**NOOR MUHAMMAD KHATTAK**

Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

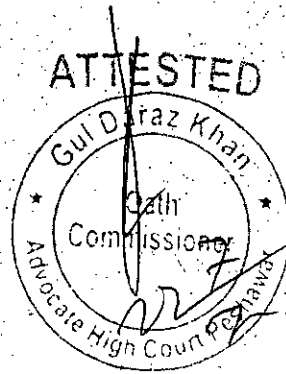
DAWOOD KHURSHID

VS

EDUCATION DEPT.

**AFFIDAVIT**

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT

A (3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 283 / 2019

Entry No. 294  
Dated 09/11/2020

Mr. Dawood Khurshid, PST (BPS-12),  
GPS Qala Chukyatan, District Dir Upper.....



APPELLANT

**VERSUS**

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

.....RESPONDENTS

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SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN  
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**PRAYER:**

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1/01/20  
Registrar

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certified to be true copy  
Registrar  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

4



07.06.2022

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate-General for the respondents present.

Counsel are on strike. Adjourned. To come up for arguments on 05.07.2022 before D.B at camp court Swat.

*[Signature]*

(Mian Muhammad)  
Member (E)  
Camp Court Swat

*[Signature]*

(Kalim Arshad Khan)  
Chairman  
Camp Court Swat

05.07.2022

Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith Nasim Khan Section Officer for respondents present.

Case was called time and again but neither the appellant nor his counsel turned up till rising of the Bench. Consequently, instant service appeal is hereby dismissed in default for non-prosecution. Parties are left to bear their own costs. File be consigned to the record room.

Announced  
05.07.2022

*[Signature]*

(Fareeha Paul)  
Member (E)  
Camp Court, Swat

*[Signature]*

(Rozina Rehman)  
Member (J)  
Camp Court, Swat

Date of Presentation of Application 05/7/22

Number of Words 800

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Page 10/2

Name of Copyist \_\_\_\_\_

Date of Completion of Copy 20/7/22

Date of Delivery of Copy 20/7/22

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

*R-A-NO-411/2022*  
CM. NO. \_\_\_\_\_/2022

IN  
APPEAL No. 283/2020

**DAWOOD KHURSHID VS EDUCATION DEPT.**

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**APPELLANT**

**THROUGH:**  
**NOOR MUHAMMAD KHATTAK**  
**ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

DAWOOD KHURSHID

VS

EDUCATION DEPT.

**APPLICATION FOR RESTORATION OF THE ABOVE**  
**MENTIONED APPEAL**

**R/SHEWETH:**

- 1- That the above titled service appeal was pending adjudication before this Honorable tribunal which was fixed on 05-07-2022.
- 2- That the counsel for the petitioner was busy in The Peshawar High Court at Peshawar as well as was engaged at principal bench of this honourable tribunal at Peshawar. That it is also worth mentioning that the subject appeals were not noted in the diary on that date.
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*It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.*

Dated:

PETITIONER/APPLICANT

Through:

**NOOR MUHAMMAD KHATTAK**  
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

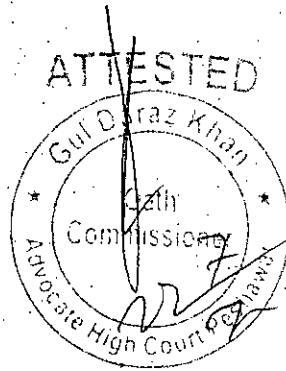
DAWOOD KHURSHID

VS

EDUCATION DEPT.

**AFFIDAVIT**

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT



A (3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 283 /2019

Slary No. 294

Dated 09/1/2020

Mr. Dawood Khurshid, PST (BPS-12),  
GPS Qala Chukyatan, District Dir Upper.....



**APPELLANT**

**VERSUS**

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
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**RESPONDENTS**

**APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA  
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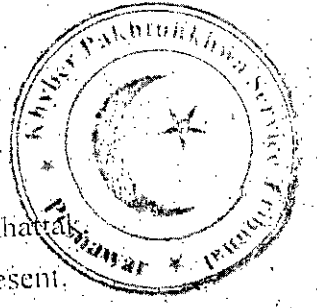
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That it is also worth mentioning, that on promulgation of KP Sacked Employee Act, 2012 appellant submitted an application for his reinstatement being covered under the said law but the same was not considered, hence the appellant filed writ petition no. 685/2017 before Peshawar high court Mingora Bench, which was

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EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar 3-

4



07.06.2022

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up for arguments on 05.07.2022 before D.B at camp court Swat.

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Case was called time and again but neither the appellant nor his counsel turned up till rising of the Bench. Consequently, instant service appeal is hereby dismissed in default for non-prosecution. Parties are left to bear their own costs. File be consigned to the record room.

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Member(E)  
Camp Court, Swat

(Roziha Rehman)  
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Date of Presentation of Application 05/7/22

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Name of Applicant \_\_\_\_\_

Date of Completion of Copy 20/7/22

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

R.A. no. 411/2022  
CM. NO. \_\_\_\_\_/2022

IN  
APPEAL No. 283/2020

**DAWOOD KHURSHID VS EDUCATION DEPT.**

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**APPELLANT**

**THROUGH:**  
**NOOR MUHAMMAD KHATTAK**  
**ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

DAWOOD KHURSHID

VS

EDUCATION DEPT.

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Dated:

PETITIONER/APPLICANT

Through:

**NOOR MUHAMMAD KHATTAK**  
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

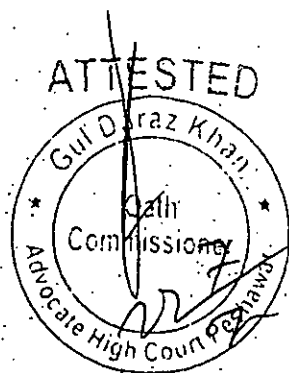
DAWOOD KHURSHID

VS

EDUCATION DEPT.

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DEPONENT

A (3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

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Entry No. 294

Dated 09/11/2020

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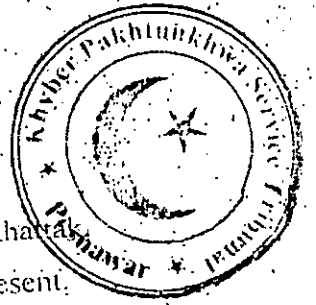
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07.06.2022

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up for arguments on 05.07.2022 before D.B at camp court Swat.

(Mian Muhammad)  
Member (E)  
Camp Court Swat

(Kalim Arshad Khan)  
Chairman  
Camp Court Swat

05.07.2022

Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith Nasim Khan Section Officer for respondents present.

Case was called time and again but neither the appellant nor his counsel turned up till rising of the Bench. Consequently, instant service appeal is hereby dismissed in default for non-prosecution. Parties are left to bear their own costs. File be consigned to the record room.

Announced.  
05.07.2022

(Fareeha Paul)  
Member(E)  
Camp Court, Swat

(Rozina Rehman)  
Member(J)  
Camp Court, Swat

Date of Presentation of Application 05/7/22

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Service Tribunal  
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR.**

*R.A. No. 411/2022*

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

**DAWOOD KHURSHID**

**VS**

**EDUCATION DEPT.**

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**APPELLANT**

**THROUGH:**

**NOOR MUHAMMAD KHATTAK  
ADVOCATE**



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

DAWOOD KHURSHID

VS

EDUCATION DEPT.

**APPLICATION FOR RESTORATION OF THE ABOVE  
MENTIONED APPEAL**

**R/SHEWETH:**

- 1- That the above titled service appeal was pending adjudication before this Honorable tribunal which was fixed on 05-07-2022.
- 2- That the counsel for the petitioner was busy in The Peshawar High Court at Peshawar as well as was engaged at principal bench of this honourable tribunal at Peshawar. That it is also worth mentioning that the subject appeals were not noted in the diary on that date.
- 3- That the mentioned service appeal was dismissed for non-prosecution vide order dated 05.07.2022. Copy of the order sheet 05.07.2022 attached as annexure .....A.
- 4- That as the matter pertaining in the instant appeal has not been decided on merit, therefore the mentioned service appeal may be restored for the sack of justice.
- 5- That there is no legal bar in restoring the mentioned appeal.

***It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.***

Dated:

PETITIONER/APPLICANT

Through:

**NOOR MUHAMMAD KHATTAK**  
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

CM. NO. \_\_\_\_\_/2022

IN

APPEAL No. 283/2020

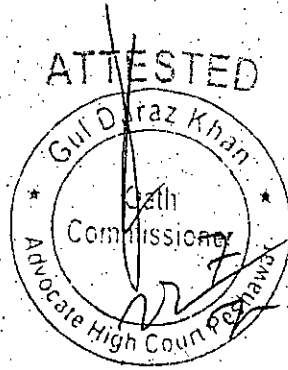
DAWOOD KHURSHID

VS

EDUCATION DEPT.

AFFIDAVIT

I, Noor mohammad khattak advocate, do hereby solemnly affirm that the contents of this **Restoration Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



DEPONENT



A (3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 283 /2019

Entry No. 294

Dated 09/11/2020

Mr. Dawood Khurshid, PST (BPS-12),  
GPS Qala Chukyatan, District Dir Upper.....



APPELLANT

**VERSUS**

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

.....**RESPONDENTS**

**APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN  
BPS-12 w.e.f. 07-04-1996 I.E. FROM THE DATE OF INITIAL  
APPOINTMENT TO THE POST OF PST AND AGAINST NOT  
TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE  
APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY  
DAYS.**

**PRAYER:**

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 07-04-1996 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

led to-day  
Registrar

**PRAYER:**  
**ON FACTS:**

Brief facts giving rise to the present appeal are as under:

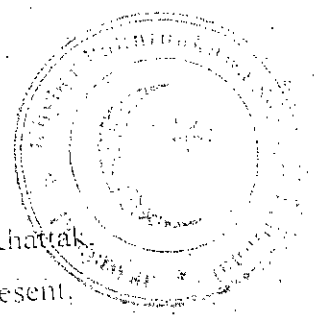
- 1- That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 07-04-1996 as stop gap arrangement. ( Copy of the appointment order is attached as annexure..... A).

That it is worth mentioning here, that in 1997 the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.

That it is also worth mentioning, that on promulgation of KP Sacked Employee Act, 2012 appellant submitted an application for his reinstatement being covered under the said law but the same was not considered, hence the appellant filed writ petition 685/2017 before Peshawar high court Mingora Bench, which

rtified to  
E. & S. E. Department  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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07.06.2022 Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up for arguments on 05.07.2022 before D.B at camp court Swat.

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Member (E)  
Camp Court Swat

*[Signature]*

(Kalim Arshad Khan)  
Chairman  
Camp Court Swat

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Case was called time and again but neither the appellant nor his counsel turned up till rising of the Bench. Consequently, instant service appeal is hereby dismissed in default for non-prosecution. Parties are left to bear their own costs. File be consigned to the record room.

Announced.  
05.07.2022

*[Signature]*

(Fareeha Paul)  
Member(E)  
Camp Court, Swat

*[Signature]*

(Rozina Renman)  
Member(J)  
Camp Court. Swat

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