Restoration Application No. 414/2022

<u>ORDER</u> 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.

280/2020 titled Service Appeal bearing No. The "Saeed Hussain 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. 280/2020 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

(Rozi) 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. *original record be requisition*

Fixe

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(Mian Muhammad) Member (Executive) Camp Court Swat

Hh.

Jati

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

Form-A

FORM OF ORDER SHEET

Court of_ **Restoration Application No.** 414/2022 . . . Order or other proceedings with signature of judge S.No. Date of order Pročeedings 2 3 1 The application for restoration of appeal No. 280/2020 22.07.2022 1 submitted today by Mr.Noor Muhammad Khattak Advocate. It is fixed for hearing before touring Division Bench at Swat on 5-9-22. Original file be requisitioned. Notices to the applicant and his counsel be also issued for the date fixed. By the order of Chairman REGISTRAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL <u>PESHAWAR.</u> Restoration Apple-NO. 414/2022 CM. NO.____/2022

IN APPEAL No. 280/2020

AIN VS

SAEED HUSSAIN

EDUCATION DEPT.

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6334-5277323 APPELLANT

THROUGH:

BEFORE THE KHYBER	PAKHTUNKH	WA SERVICI	<u>E TRIBUNAL</u>
Restoration			Khyber Palahtukhwa Service Tribunai
CM.	NO	_/2022	Biory No. 761_
API	PEAL No. 280	/ 2020	Biary No. 12/7/2022
SAEED HUSSAIN	VS	EDUCAT	TON 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.

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.

Through:

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

NOOR MUHAMMAD KHATTAK

Advocate, Peshawar

CM. NO.____/2022 IN

APPEAL No. 280/2020

SAEED HUSSAIN

VS

EDUCATION DEPT.

DEPOMENT

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.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TR Khyber Pakhtukhwa

PESHAWAR

ervice Tribanai

Diary No 22

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APPELLANT

2820

280 APPEAL NO.___ 2019

Mr. Saeed Hussain, PST BPS-12, GPS Mamosai Kass, District Dir Upper.

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. 28-11-1995 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. 28-11-1995 with all back benefits. Any other remedy which this august Service Filedto-dayTribunal deems fit that may also be awarded in favor of the appellant.

Regist R/SHEWETH: 09 101 1 ON FACTS:

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That later on the appellant was appointed against regular post Wide order dated 18/04/1996 w.e.f. the date of his first appointment i.e. 28/11/1995. (Copy of second appointment order is attached as annexure.....

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.

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

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

20/7/22 20/7/22

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

05/07/22

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PESHAWAR. Restoration MP/L:- no. 414/2022 CM. NO.____/2022 IN

APPEAL No. 280/2020

VS

SAEED HUSSAIN

EDUCATION DEPT.

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APPELLANT

THROUGH: NOOR MUHAMMAD KHATTAK ADVOCATE

CM. NO.____/2022

IN APPEAL No. 280/2020

SAEED HUSSAIN

VS

EDUCATION DEPT.

APPLICATION FOR RESTORATION OF THE ABOVE MENTIONED APPEAL

<u>R/SHEWETH:</u>

1-

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- 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.

 - 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

CM. NO.___/2022 IN

APPEAL No. 280/2020

VS

SAEED HUSSAIN

EDUCATION DEPT.

DEPONENT

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.



Shoukh

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtukhwa rvice Tribunal

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APPELLANT

2620

Diary No. 27

280 /2019 APPEAL NO.

Mr. Saeed Hussain, PST BPS-12, GPS Mamosai Kass, District Dir Upper.

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. 28-11-1995 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 MINETY DAY<u>S.</u>

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 28-11-1995 with all back benefits. Any other remedy which this august Service edto-dayTribunal deems fit that may also be awarded in favor of the appellant.

egisti Ŕ/ŠHEWETH: 17

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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 ⁱⁿawar

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.

<u>Announced.</u> 05.07.2022

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

(Rozina Rehman) ger(J)Mem amp Court, Swat

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PESHAWAR. R-A. NO. 414/2022 CM. NO._ /2022 IN

APPEAL No. 280/2020

SAEED HUSSAIN

VS EDUCATION DEPT.

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APPELLANT

THROUGH: NOOR MUHAMMAD KHATTAK ADVOCATE

CM. NO.____/2022

APPEAL No. 280/2020

ΤN

VS

SAEED HUSSAIN

EDUCATION DEPT.

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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:

3-

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PETITIONER/APPLICANT

Through:

NOOR MUHAMMAD KHATTAK Advocate, Peshawar

CM. NO.____/2022 IN APPEAL No. 280/2020

SAEED HUSSAIN

VS .

EDUCATION DEPT.

DEPOMENT

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.



2021

APPELLANT

RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR Khyber Pakhtuki ice Tribunai

/2019

www.www.ki

APPEAL NO. 280

Mr. Saeed Hussain, PST BPS-12, GPS Mamosai Kass, District Dir Upper.

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.

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN BPS-12 w.e.f. 28-11-1995 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 MINETY DAYS.

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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.

<u>Announced.</u> 05.07.2022

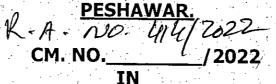
(Fareena Paul) Member(E) Camp Court, Swat

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

05/07/22

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APPEAL No. 280/2020

VS

SAEED HUSSAIN

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APPELLANT

THROUGH: NOOR MUHAMMAD KHATTAK ADVOCATE

СМ. NO.___/2022

IN APPEAL No. 280/2020

VS

SAEED HUSSAIN

EDUCATION DEPT.

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Dated:

PETITIONER/APPLICANT

Through: NOOR MUHAMMAD KHATTAK

Advocate, Peshawar

CM. NO.____/2022 IN APPEAL No. 280/2020

VS

SAEED HUSSAIN

EDUCATION DEPT.

DEPOMENT

AFFIDAVIT

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APPELLANT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Khyber Pakhtuk PESHAWAR ice "Fribunai

> APPEAL NO. 280 /2019 **WWWR**k

Mr. Saeed Hussain, PST BPS-12, GPS Mamosai Kass, District Dir Upper.

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. 28-11-1995 I.E. FROM THE DATE OF INITIAL AND AGAINST NOT APPOINTMENT TO THE POST OF PST TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

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Counsel are on strike. Adjourned. To come up tor 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 Shawar

05.07.2022

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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

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

05/07/2 and the second succession in the Number of Wards ______ consideration ______ [0]

(Rozina Rehman) Member(J) amp Court, Swat Centified to be ture copy

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R-A. MD. 414/2022 CM. NO.____ /2022 IN

APPEAL No. 280/2020

SAEED HUSSAIN VS EDUCATION DEPT.

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APPELLANT

THROUGH: NOOR MUHAMMAD KHATTAK ADVOCATE

CM. NO.____/2022 IN APPEAL No. 280/2020

SAEED HUSSAIN

VS

EDUCATION DEPT.

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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

8.7

CM. NO.____/2022 IN APPEAL No. 280/2020

SAEED HUSSAIN 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.

DEPOMENT



Diary No 275

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR Khyber Pakhtukhwa vice Tribunal

280 APPEAL NO. /2019

Mr. Saeed Hussain, PST BPS-12, PPELLANT GPS Mamosai Kass, District Dir Upper.

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. 28-11-1995 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 MINETY DAYS.

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Registrar

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(Mian Muhammad) Member (E) Camp Court Swat (Kalim Arshad Khan) Chairman Camp Court Swat

05.07.2022

07.06.2022

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.

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<u>Announced.</u> 05.07.2022

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

(Rozina Rehman)

Member(J) Camp Court, Swat

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