

05.07.2022

Petitioner present in person. Mr. Noor Zaman, District Attorney alongwith Saif Ur Rehman, Superintendent for respondents present.

Petitioner submitted an application which is placed on file, and states that grievances have been redressed and wants to withdraw the instant petition.

In view of the above, instant Execution Petition stands disposed of being fully satisfied. File be consigned to the record room


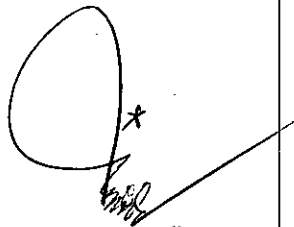
Announced
05.07.2022


(Fareeha Paul)
Member (E)

Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 132/2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1.	04.03.2022	<p>The application for restoration of appeal No. 1490/2020 submitted today by Mr. Khan Sardar Alam 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,</p>
2		<p>This restoration application is entrusted to touring S. Bench at Swat to be put up there on <u>12.5.22</u></p> <p style="text-align: right;">CHAIRMAN</p>
12.05.2022		<p>None for the petitioner present. Mr. Noor Zaman Khattak, District Attorney for respondents present.</p> <p>Notices be issued to the respondents for submission of reply on restoration application on 05.07.2022 before S.B at camp court Swat.</p> <p style="text-align: right;"> (Mian Muhammad) Member(E) Camp Court Swat</p>

بعدالت جناب سروس ٹریبونل خیبر پختونخواہ بمقام ضلع سوات

ڈپٹی کمشنر بونیر وغیرہ

بنام

محراقبال

سروس اپیل وغیرہ

درخواست بمراد واپس لینے مقدمہ عنوان بالا

جناب عالی! سائل/مدعی حسب ذیل عرض رساں ہے۔

- ۱۔ یہ کہ مقدمہ عنوان بالا عدالت حضور میں زیر سماعت ہے، جس میں آج تاریخ پیشی مقرر ہے۔
- ۲۔ یہ کہ سائل/مدعی نے جس امر کے تحت اپیل داخل عدالت کیا تھا، تو مدعا علیہ نمبر 3 نے اس ضمن میں مدعی کے نام Letter No. 7446 جاری از دفتر خود کر کے، سائل/مدعی کی پروموشن دینے کے احکامات صادر کی۔ جس کی وجہ سے سائل/مدعی مقدمہ واپس لینا چاہتا ہے۔ بدیں وجہ مقدمہ عنوان بالا کو داخل دفتر کیا جائے۔ (نقل آرڈر/لیٹرف درخواست ہذا ہے)۔
- ۳۔ درخواست ہذا کی منظوری میں کوئی قانونی امر مانع نہ ہے۔

لہذا استدعا ہے کہ بمنظوری درخواست ہذا، مقدمہ ہذا کو بلا مزید کارروائی، واپس

کرنے کا حکم صادر فرمایا جائے۔



حریف

سائل/مدعی (محمد اقبال)

تصدیق:

تصدیق کی جاتی ہے کہ جملہ مراتب درخواست ہذا
تاحد علم و یقین درست و صحیح ہیں۔



سائل/مدعی (محمد اقبال)



**OFFICE OF THE
DEPUTY COMMISSIONER
BUNER**

June, 22, 2022.

OFFICE ORDER

No. 7446-59/DC/Buner/Estt. In pursuance of the recommendations made by the Departmental Selection/Promotion Committee the following Senior Clerks (BPS-14) of this office are hereby promoted as Assistants (BPS-16) against the vacant posts on regular basis with immediate effect on the terms and conditions noted below.

S.NO.	NAME OF OFFICIAL	DESIGNATION.	PROMOTED AS.
1.	Mr. Muhammad Iqbal	Senior Clerk (BPS-14)	Assistant (BPS-16)
2.	Mr. Amra Ali Khan	Senior Clerk (BPS-14)	Assistant (BPS-16)
3.	Mr. Sadaqat Ali	Senior Clerk (BPS-14)	Assistant (BPS-16)

Terms and Conditions:

1. They will remain on probation for a period of one year.
2. They will be governed by the Govt. of Khyber Pakhtunkhwa Civil Servants' Act-1973 and all the laws applicable to the civil servants and rules made there under.
3. They will, for all intents and purposes, be the civil servant as per the existing policy / service-rules.

**DEPUTY COMMISSIONER,
BUNER.**

Endst. No. & date even.

1. The Commissioner, Malakand Division.
2. The Secretary Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
3. The Additional Deputy Commissioner, Buner.
4. All the Assistant Commissioners, in Buner.
5. The District Accounts Officer, Buner.
6. The District Nazir (Local).
7. Official concerned for compliance.

**DEPUTY COMMISSIONER,
BUNER.**

1

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Restoration Application No 132 /2022

In Service Appeal No 1490/2020

Muhammad Iqbal (Senior clerk) at DC Office Bunir.

.....Petitioner/Appellant

VERSUS

1. Deputy Commissioner Buney DC Office Bunir.
2. Commissioner Malakand Division at Mingora Swat.
3. Senior Member Board of Revenue KPK, Peshawar.

.....Respondents

Index

S.No.	Description of documents	Annexure	P. No
1	Memo of Petition		2-3
2	Affidavit		4
3	Copy of Appeal	A	5-8
4	Copy of Order dated 01/11/2021	B	9
5	Wakalat Nama	C	10

Petitioner

Through



Khan Sardar Alam

&

Afaq Anwar Chamkani
Advocate High Court,
Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Restoration Application No 132 /2022

In Service Appeal No 1490/2020

Muhammad Iqbal (Senior clerk) at DC Office Bunir.



.....Petitioner/Appellant

VERSUS

1. Deputy Commissioner Bune, DC Office Buner.
2. Commissioner Malakand Division at Mingora Swat.
3. Senior Member Board of Revenue KPK, Peshawar.

.....Respondents

APPLICATION FOR RESTORATION OF THE
CASE/SERVICE APPEAL TITLED "MUHAMMAD IQBAL
VS DEPUTY COMMISSIONER & OTHERS" WHICH WAS
DISMISSED IN DEFAULT 01/11/2021.

RESPECTFULLY SHEWETH,

Petitioner/appellant submit as under: -

1. That the above titled Service Appeal was pending for adjudication in this honorable court, which was dismissed in default by this honorable court on 01/11/2021. **(Copy of Appeal and order sheet is annexure "A" "B" respectively)**
2. That in the instant Service appeal, the appellant was appeared before the Camp Court Swat on date fixed, but inadvertently and due to covid-19 epidemic the routine business of the court was disturbed which created a great amount of confusion in ascertaining the actual date of hearing hence the default in appearance was not intentional but was occurred due to the said compelling circumstances.

3. That absence of the petitioner/plaintiff was not deliberate or willful but was unintentional and due to the above mentioned reasons.
4. That any delay in filing the instant restoration Application may kindly be condone under section 30 of THE KHYBER PAKHTUNKHWA EPIDEMIC CONTROL AND EMERGENCY RELIEF ACT, 2020 (KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2020) which state that, " **Period of limitation under various laws.**--- *Notwithstanding anything contained in the Limitation Act, 1908 (Act No. IX of 1908) or any other law prescribing limitation for initiating any legal proceedings, the limitation period provided under various laws shall remain frozen from 1st March 2020 till the culmination of the emergency period and the proceedings so filed before any court or tribunal during or immediately upon cessation of such emergency period, shall not be time-barred on account of any delay for the aforesaid period.*
5. That the law also favor adjudication on merit and technicality should not stand in the way of justice.
6. That valuable rights of the petitioner is involved in the instant case.
7. That there exists no legal bar on the acceptance of instant petition rather the same is in the interest of justice.
8. That other grounds would be raised at the time of arguments with the permission of this honorable court.

It is, therefore, requested that on acceptance of this petition the Case/Appeal of the petitioner/Appellant may kindly be restored in the interest of justice.

Petitioner
Through
Khan Sardar Alam &
Afaq Anwar Advocates



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Restoration Application No _____/2022

In Service Appeal No 1490/2020

Muhammad Iqbal (Senior clerk) at DC Office Buner.

.....Petitioner/Appellant

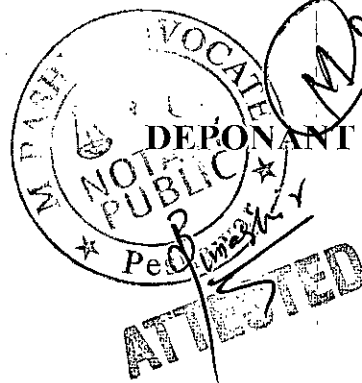
VERSUS

1. Deputy Commissioner Bune, DC Office Buner.
2. Commissioner Malakand Division at Mingora Swat.
3. Senior Member Board of Revenue KPK, Peshawar.

.....Respondents

AFFIDAVIT

I, Muhammad Iqbal S/O Ameer Nawab R/o Krhapa Buner declared on oath that all the contents of this petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon, able court.



Anx "A"

**BOFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**



Service Appeal No. 1490 /2020

Diary No. 1755

Dated 11/3/2020

Muhammad Iqbal (Senior Clerk) at DC office Buner (Appellant)

VERSUS

1. Deputy Commission Buner, DC office Buner.
2. Commissioner Malakand Division at Mingora Swat.
3. Senior Member Board of Revenue KPK, Peshawar

(Respondents)

**SERVICE APPEAL UNDER SECTION IV OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST
THE IMPUGNED OFFICE ORDERS / LETTERS 76-78 DATED:01-
01-2020,70-72 DATED 01-01-2020,and 244-CF/Estt: Dated: 12-
02-2020.**

Prayer: on acceptance of this Service Appeal, the impugned office orders No.76-78 dated 01-01-2020, 70-72 Dated 01-01-2020, 244-CF/Estt Dated 13-02-2020, ENDST No.24-28/F No.121/A-23 / MS /Buner -2 Dated: 01-02-2019. may kindly be set aside and the Respondents may kindly be directed to allow the Appellant, to promote on his reserved seat of BPS -16 at Deputy Commission office Buner in the best interest of public.

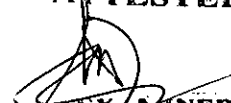
Filed to Registrar
Respectfully Sheweth:

Brief facts giving rise to the instant Service appeal are as under:

FACTS:

1. That On 16-05-1993 the appellant was appointed as junior clerk in EAC Daggarr office and later on, Appellant promote as senior clerk. **Copy of initial order of the appointment is Annexure A).**

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. That after completion of prescribe length of service and fulfilling other requisite on the post of senior clerk for onward promotion to the post of office assistance BPS-16, the appellant was under legitimate to post of BPS -16 laying reserved/vacant in Deputy Commission office Buner.
3. That the Appellant was serving in D.C office as Senior clerk, and applied for 852 days leave with half pay, which was allowed on 01-08-2014 commencing from 01-09-2014. **(Copy of leave order is Annexure B).**
4. That due shortage of staff the D.C buner Cancelled the leave of appellant on 13-11-2015.and appellant joined his duty.
5. That after joining of his duty, the DC buner, make enquiry against the appellant with malafide intention. In the said enquiry the appellant remove from his service on 10-02-2016. That Appellant filed service appeal No.263/2017 before the Hon,able Service tribunal KpK at Peshawar.
6. That the Hon,able Service Tribunal, Peshawar accepted the service appeal of the appellant by setting aside the removal order, and re-instated him into his service vide order Dated: 20-11-2018. **Copy of Judgment is Annexure C).**
7. That the Appellant also communicated/sent the attested copies of the said judgment, through currier service but even then the respondent are not obeying the order of the Hon,able service tribunal kpk and also reluctant to re-instated the appellant in service.
8. That the Appellant filed execution petitioner No.27/2019 before the Hon,able service tribunal kpk at Peshawar on 18/01/2019.and given various opportunity to the respondent to produce any order/decision of the Apex Court requiring suspension of judgment under implementation setting aside on 08/10/2019, however on 08/10/2019 the respondent produce the re-instatement order of the appellant. **Copy of Execution order is Annexure D).**
9. That 01/01/2020 vide tentative seniority list of BPS-16 No. 76-78/ issue, but the name of appellant was not mention in the seniority list. Similarly on the same day waiting list was issue, in which the appellant was on top position. **(Copy of promotion order is Annexure E).**
10. That being aggrieved, the appellant filed departmental appeal before the respondent no.2 on 20/01/2020 against the impugned latter NO 76-78. But the same was dismissed by the respondent no.2 on 13/02/2020 that CPLA was pending before the august Supreme Court against the appellant. **Copy of application and Order are Annexure F and G)**


ATTESTED
 [Signature]
 Member, Peshawar
 Service Tribunal
 Peshawar

11. That being aggrieved from the actions and inactions of Respondents, the Appellant prefers this Service Appeal on the following grounds amongst others inter-alia.

GROUND:

- A. That the appellant name was not mention in seniority list due to baseless plea of the respondent's no.1 and 2 and also due to back stair influence exerted by political person, hence violation of the law and rule.
- B. That as per law, rule and legitimate expectancy the appellant was entitled to have been included the name in list of BPS-16 which was lying reserved vacant.
- C. That the Name of appellant has not been treated according to the law and natural justice, hence the impugned order of the respondents against the spirit of the law.
- D. That the respondent always accommodated their blue eyed on political exertion as per seniority reflected at serial no 12 to 16 and 19 are junior from appellant, so the respondents once again exercise their power not vested to them under the rule and policy.
- E. That after official respondent vide departmental promotion committee held on 01/01/2020, promoted serial no 12 to 17 and 19 while the promotion of the appellant deferred due pending of the CPLA against the appellant before the August Supreme Court.
- F. That the appellant being fit and qualified is entitled to be considered for promotion fairly, justly and without influence from any extraneous consideration.
- G. That the actions and inactions of Respondent No. 1 and 2 are arbitrary, mechanical, based on favoritism and personal interest, needs interference of this august court. hence the order of Respondents liable to be set aside.

ATTESTED


Khalid Akhtar
Service Tribunal
Peshawar

H. That the Appellant seeks the permission of this august Court to rely on additional grounds at the hearing of this Appeal.

It is, therefore, humbly prayed that on acceptance of this Service Appeal, the impugned office orders / letters 76-78 dated: 01-01-2020, 70-72 dated 01-01-2020, and 244-cf/estt: dated: 12-02-2020 may kindly be set aside and the Respondents may kindly be directed to allow the Appellant, to perform his duties against his vacant post at D.C office at Daggar, Buner in the best interest of public.

OR

Any other relief which this august Court deems appropriate may kindly be awarded to meet the ends of justice.

Alabul

Appellant

Through: *Syadli*

Khan Sardar Alam
Advocate, High Court

District Buner.

CERTIFICATE & AFFIDAVIT:

Certified that no such like Appeal has earlier been filed before this august court regarding the instant matter.

Syadli

ADVOCATE

List of Books:

1. Service Act.
2. E&D Rules 2011.
3. Any other law books according to need.

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

Syadli
ADVOCATE

Anx "B"

9



Service Appeal No. 1490/2020

ORDER
01.11.2021

Nemo for the appellant.

The appeal-in hand was called on for hearing after various intervals, however neither the appellant nor anyone else appeared on his behalf till the closing time, therefore, the appeal in hand stands dismissed in default. Parties to bear their own costs. File be consigned to the record room.

ANNOUNCED
01.11.2021

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

Certified Signature copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 11-02-2022
Number of Words 2000
Copying Fee 22/-
Urgent 4/-
Total 26/-
Name of Copy —
Date of Completion of Copy 11-02-2022
Date of Delivery of Copy 11-02-2022

وکالت نامہ

248

24735

بک نمبر:

سرٹیفکٹ نمبر:

<p>ایڈویکٹ دستخط:</p> <p>بار کونسل اہلکار ایسوسی ایشن</p> <p>رابطہ نمبر: 0333</p>	<p>President Bar Association</p> <p>ڈسٹرکٹ بار ایسوسی ایشن بونیر خیبر پختونخوا</p>
---	--

بعدالت جناب: سر سید اہنول حیدر رحمتون فوائت و

<p>منجانب: سائل / اپیلانٹ</p> <p>محمد امین خان بونیر</p>	<p>دعوی: Service - Appeal</p> <p>علت نمبر:</p> <p>مورخہ:</p> <p>جم:</p> <p>تھانہ:</p>
--	---

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام ڈگری کیلئے خانی سرور علی احمد و سائل کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی مکمل کاروائی کا سائل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دہی اقبال دعویٰ اور درخواست ازہم قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری بکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل ٹرانسفر و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کاروائی کے لئے سائل کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیار حاصل ہونگے اور اس کا ساختہ قبول و منظور ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرے گا حقدار ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر تو وکیل صاحب پابند نہ ہوں گے کہ پیروی کی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقام: 04.02.02

المقام: گواہ شد

المقام: کے لئے قبول و منظور ہے

نوٹ اس وکالت نامہ کی فوٹوں کاپی ناقابل قبول ہوگی۔

محمد اقبال ولد امیر نواز صاحب سیکٹہ 20

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. Rest Restoration APP NO 132/22 TB Swat

Appeal No..... of 20 ..

Mohd Iqbal.....Appellant/Petitioner

Versus

DC Boney.....Respondent

Respondent No..... 2

Notice to: — Commissioner Malakand Division
at Mingora Swat

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 5-7-22 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....8
Day of.....6 22

at camp court

Swat

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

172 (M)

Restoration of 10/13/55

172

172 (M)

172

172

172

172 (M)

172 (M)

172 (M)

172

172

2-1-55

172

172

172

172 (M)

172

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. Restoration ~~APP~~ APP NO 132/22 TB Swat
Appeal No..... of 20

..... *Mohammad Iqbal* Appellant/Petitioner
Versus

..... *DC Boney* Respondent
Respondent No..... /

Notice to: — Deputy Commissioner Boney

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on..... at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this..... 8.....

Day of..... 6.20 22

*of our Court
Swat*

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

copy

TJB 2/24/74

Restoration No 135/75

Washington 1/1/75

DC Bureau

Deputy Commissioner Bureau

2-5-75

2/24/75
at and cost

CR

0 75

2