

ORDER
13.09.2022

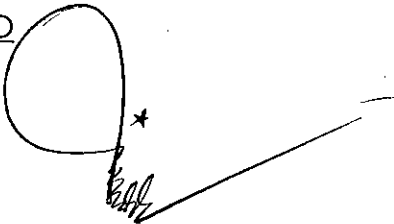
Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments on restoration application heard and record perused.


Service Appeal bearing No. 250/2017 titled "Muhammad Arif Versus Province of Khyber Pakhtunkhwa, through Secretary to Government of Khyber Pakhtunkhwa, Home and Tribal Affairs, Civil Secretariat, Peshawar and fourteen others", was dismissed in default vide order dated 12.05.2022. According to learned counsel for the petitioner, incorrect date as 22.06.2022 was mistakenly noted by him in his diary, therefore, he as well as the appellant could not appear before the Tribunal on 12.05.2022 and the appeal was thus dismissed in default.

Although there is some delay in filing of restoration application but there are numerous rulings of august superior courts, wherein it has been held that cases should be decided on merits by avoiding technicalities. The application for restoration of service appeal is supported by duly sworn affidavit. Law also favours adjudication on merit by avoiding technicalities.

In light of the above discussion, the application in hand is accepted and the Service Appeal bearing No. 250/2017 stand restored on its original number subject to payment of cost of Rs. 2000/-. Copy of this order be placed on file of Service Appeal bearing No. 250/2017. File be consigned to the record room after necessary completion and compilation.

ANNOUNCED
13.09.2022


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

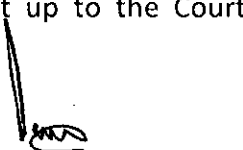



Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 365/2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.06.2022	<p>The application for restoration of appeal No. 250/2017 submitted today by Mr. Ased Zeb Khan 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>5-7-2022</p> <p><i>Date stated as per Peshawar</i></p> <p>SCANNED KPST Peshawar</p>	<p>This restoration application is entrusted to Division Bench at Peshawar to be put up there on <u>13-9-2022</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;"> CHAIRMAN</p>

D

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Restoration Application No. 365/2022

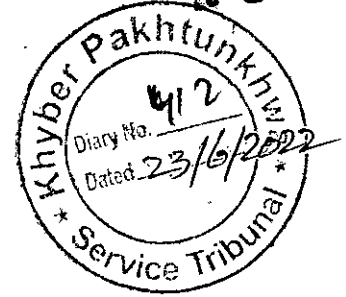
C. M No. _____/2022
In Service Appeal No: 250 of 2017

SCANNED
KPS
Peshawar

MUHAMMAD ARIF

VERSUS

GOVT: OF KHYBER PAKHTUNKHWA, ETC



APPLICATION FOR THE GRANT OF ORDER OF
RESTORATION OF SERVICE APPEAL No. 250/2017
WHICH WAS DISMISSED IN DEFAULT FOR
APPEARANCE ON DATE FIXED VIDE ORDER
DATED: 12-05-2022 BY THE HON'BLE TRIBUNAL.

Respectfully Sheweth:

The appellant/applicant most humbly submit as under:

1. That the above captioned appeal was pending in this Hon'ble Tribunal, which was dismissed in default on 12-05-2022, by the Hon'ble Tribunal.
2. That the non-appearance of the applicant/appellant was not intentional but due to the mistake of noting incorrect date, i.e. 22-06-2022.
3. That on 21-06-2021, the applicant/appellant when approached the office of the Hon'ble Tribunal for taking copies of written reply of the respondents (which was misplaced from the brief/file of the applicant/appellant), the applicant/appellant was informed that the case is not fixed for 22-06-2022 and after thorough checking of the record/register of the tribunal, the applicant/appellant came to know that the same appeal was dismissed in default vide order dated: 12-05-2022. So the applicant/appellant at the said

(2)

movement, submitted an application for getting attested copies of the order dated: 12-05-2022.

{True copy of order dated: 12-05-2022 is attached, as mark Annex-AA}

4. That the non-appearance of the applicant/appellant is not intentional but due the reason mentioned above.
5. That the present application, in the circumstances mentioned above, is well within time and being involvement of valuable rights of the applicant/appellant, restoration of the appeal and its decision on merits is the need of hour and in the best interest of justice.
6. Other points will be raised at the time of arguments.

**IT IS, THEREFORE, MOST HUMBLLY SUBMITS
THAT WHILE ACCEPTING THE INSTANT
APPLICATION, ORDER OF RESTORATION OF
SERVICE APPEAL MAY KINDLY BE PASSED
AND THE APPLICANT BE PERMITTED TO
ARGUE THE MATTER ON MERITS.**

Dated: 22-06-2022

Through **Applicant/Appellant**



Asad Zeb Khan
Advocate High Court.

3

**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR.**

C. M No. _____/2022
In Service Appeal No: 250 of 2017

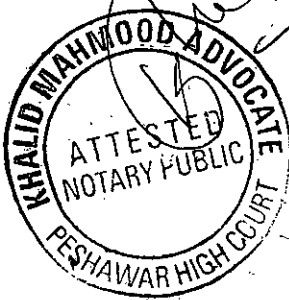
MUHAMMAD ARIF

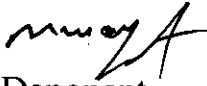
VERSUS

GOVT: OF KHYBER PAKHTUNKHWA, ETC

AFFIDAVIT

I, Asad Zeb Khan, Advocate High Court, Peshawar (as per instructions of my client), do hereby solemnly affirms and declare upon oath that the contents of the instant application are true and correct to the best of information given by my client and nothing has been kept concealed or withheld from this Hon'ble Tribunal.




Deponent

D (4)



BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 250 /2017

Diary No. 217

Dated 28/2/2017

MUHAMMAD ARIF, Police Department, LHC No. 153, presently posted
in CTD, District Swabi.

Appellant

VERSUS

1. **PROVINCE OF KHYBER PAKHTUNKHWA,**

Through Secretary to Govt. of Khyber Pakhtun Khwa,
Home and Tribal Affairs,
Civil Secretariat, Peshawar

2. **Inspector General of Police,**

Khyber Pakhtunkhwa Peshawar,
Central Police Office, Peshawar.

3. **Deputy Inspector General of Police,**

Mardan Region-I, Mardan.

4. **District Police Officer, Swabi**

Chairman, Departmental Promotion Committee.

Contesting Respondents.

5. **Ahmad Wali, FC No. 296, Police Lines, Swabi,** *Driver SP investigation office, Swabi.*

6. **Sardar Ali, FC No. 121 Police Lines, Swabi.**

7. **Abdul Hakeem, FC No. 577, Police Lines, Swabi.** *Distt. Security Branch, swabi.*

8. **Akhtar Nabi, FC No. 466, Police Lines, Swabi.**

9. **Sher Bahadar, VR No. 465, Police Lines, Swabi.**

10. **Noor Zada, FC No. 246, Police Lines, Swabi.** *Presently Police station, swabi.*

11. **Jamshed Ali, FC No. 235, Police Lines, Swabi.** *Gunner, DPO, swabi.*

12. **Muhammad Riaz, FC No. 415, Police Lines, Swabi.**

13. **Safdar Khan, FC No. 333, Police Lines, Swabi.** *Presently Police station, Topi, swabi.*

Re-submitted to -day
and 02/11/17

14/3/17

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

② ③

14. Aurang Zeb, FC No. 432, Police Lines, Swabi.

15. Ibrahim Shah, FC No. 135, Police Lines, Swabi.

Prof. Juma Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ACTION AND INACTION OF RESPONDENTS, VIDE WHICH THE RESPONDENTS HAVE REFUSED TO GIVE PROMOTION TO THE APPELLANT AND PROMOTED OTHER JUNIOR FC'S VIDE IMPUGNED DPC DATED: 09-11-2016 AND APPROVAL DATED: 18-11-2016 AND ALSO FAILED TO DECIDE THE REPRESENTATION/ DEPARTMENTAL APPEAL OF THE APPELLANT DATED: 05-12-2016, DATED: 04-06-2015 AND 15-04-2015.

Prayer:-

ON ACCEPTANCE OF THE INSTANT APPEAL THE RESPONDENTS MAY KINDLY BE DIRECTED TO PROMOTE THE APPELLANT ALONG WITH ALL OTHER CONSEQUENTIAL RELIEF INCLUDING ARREARS AND SENIORITY, ETC.

Respectfully Sheweth:

FACTS:-

Facts leading to the institution of the instant appeal are as under:-

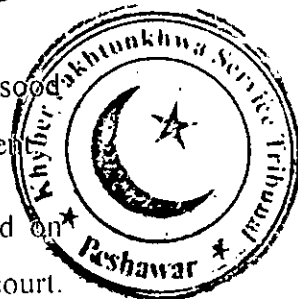
1. That the appellant was appointed in Police Department on 10.12.1988 as constable and was thereafter promoted to the rank of List-CII vide order dated: 09-05-1997. It would be relevant to mention that the appellant has studied upto the level of F.A.
2. That the appellant during his service also got some special courses relating the police service which includes, Finger Print, Civil Defense, Gas Course, Bomb Recon:, Bomb Disposal, computer course, Fire Brigade, Basic Intelligence course.
{True Copies of courses certificates are attached, as Annex-A}

ATTESTED
[Signature]
EXAMINER
Hyderabad
Service Tribunal
Hyderabad

Appeal No. 250/2017 (D)
M. Arif vs Govt

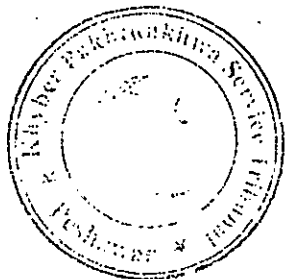
12.05.2022

None present on behalf of the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.



2. Case was called time and again but none appeared on behalf of the appellant till closing hours of the court. Consequently the present appeal is dismissed in default. Consign.

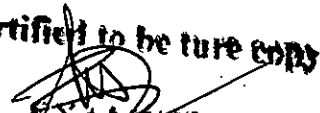
3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 12th day of May, 2022.




(KALIM ARSHAD KHAN)
Chairman


(FAREEHA PAUL)
Member (E)

Date of Presentation of Application 21-06-22
Number of Words 1200
Copying Fee 14/-
Urgent 4/-
Total 18/-
Name of Copyist _____
Date of Completion of Copy 21-06-22
Date of Delivery of Copy 21-06-22

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

7

12

جمعرات

جہاں بادی النظر میں عدلی کے خلاف کوئی مقدمہ نہ بنایا گیا ہو اور ریکارڈ پر موجود شواہد قابل اعتبار ہوں تو معاملہ کی مزید انکوائری کی جانے کی جس بناء پر عدلی کو ضمانت پر رہا کیا جا سکتا ہے۔ ضمانت منظور۔

[PLR (D.I.Khan) 117]

10 ذوال 2022

W.P/1020/2022

محمد علی بن عبدالعزیز

Source

محمد علی بن عبدالعزیز

(36)

محمد علی بن عبدالعزیز

لیگل ایڈیشن


(8)

پریم جوڈیشل کونسل کے روبرو کارروائی اورین کورٹ میں نہیں کی گئی کیونکہ یہ جوڈیشری کیلئے سوومند
نہیں۔ اس کی وجہ یہ تھی کہ پریم جوڈیشل کونسل کے روبرو لگائے گئے الزامات بعد میں غلط اور چھوٹے
ثابت ہوئے۔
[PLD 2018 SC 845]

22
جون
2022
22 ذوالقعدة

W.P
محمد عرفان کلاویہ
S-T Appeal No 250/17

وہاں نام
سپریم کورٹ میں درخواست جمع کرنا ہے

10295	  
ایڈویکٹ: اسد زب خان	
بار کونسل ایسوسی ایشن نمبر: B.C 09-1517	
رابطہ نمبر: 03469800569	پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سر جسٹس بیونل چیمبر

منجانب: محمد عارف	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

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

آن مقام چیمبر کیلئے اسد زب خان ایڈویکٹ کے ہاں پیش کر کے سامنے 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 بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لے جانے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

Attested
and
Accepted

المقام: 23-6-2022

محمد عارف

مقام: پشاور

نوٹ: اس وکالت نامہ کی فونو کاپی نام قابل قبول ہوگی۔