
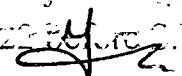


Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 440/2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	01.08.2022	<p>The application for restoration of petition u/s 12 (2) CPC in service appeal no. 547/2013 presented today by Mr. Maqsood Ali Khattak Advocate, may be entered in the relevant register. This restoration application is entrusted to S. Bench to be put up there on <u>02-08-2022</u></p> <p style="text-align: right;"> REGISTRAR</p>
	02.08.2022	<p>Learned member (E) on leave therefore case is adjourned for to 13-9-2022 the list. Adjourned to court for preliminary hearing on 13.09.2022 by  Reader</p> <p style="text-align: right;">(Fazlullah) Member (E)</p>

BEFORE THE HONOURABLE SERVICE TRIBUNAL

R/A No: 440/2022 PESHAWAR

CM:- Petition 12(2)Cpc. No _____ /

CM _____ /2022

Nisar Ahmad vs Asad Mahmood etc

SUBJECT APPLICATION FOR RESTORATION OF U/S 12(2)

CPC.1908 PETITION

Respectfully Sheweth,

1. That the above caption petition is dismissed in default by this honourable tribunal on dated 26/7/2022.
2. That on last date of hearing the Petitioner three cases namely (i) Nisar Ahmad Vs Asad Mahmood, (ii) Touheed Khan Vs Asad Mahmood (iii) Tariq Iqbal vs Abdul Hai Khan was fixed before this honourable Tribunal.
3. That the honourable Chairman started query about the Petitioners at the time of arguments that "who is aggrieved amongst the Petitioners from the orders passed by this Honourable Tribunal, who was party to the main Appeal and who's were not. Party made party by Appellant (Abdul Hai khan)" etc.
4. That on dated 27.06.2022 during course of arguments about mentioned query of the honourable Chairman of this service tribunal the leaned counsel Mr. Zakir Ullah has raised objection that he is representing one of the Respondent (Asad Mahmood), in today he did not possess the case file and his case was fixed for 29/06/2022 and he having no such information about case has been change from 29.06.2022 to 27.06.2022, while the litigant Abdul Hai khan has also informed to honourable tribunal that for today his counsel is not in attendance, so on the pretext the above this honourable court has adjourned all the mentioned Petition for 27.07.2022.

5. That through is restoration Application Applicant counsel want high light his possession before this honourable Tribunal and also asserted some problem which faces by me at the time of practicing before this honourable tribunal it is not the first time that my cases have been dismissed many but such situation is not affordable to me, because this type of dismiss in default orders and also create negative impact on my practice and also damage my reputation towards my client. Further stated that my client having service life entrust is attached with their cases he considered that counsel fail to resecure his entrust.
6. That I hope that the honourable chairman will take some effective step to stop such like practice which is start by the staff of this honourable tribunal.
7. That this restoration Application is within time, no legal hurdle stand/exist restoration of this petition and nothing has been concealed from this honourable Court.

Prayer: - It is therefore humbly prayed that may kindly accept the present Application and issue direction for restoration of the Captioned 12(2) Cpc. 1908 Application.

Deponent

Through

Maqsood Ali
Maqsood Ali

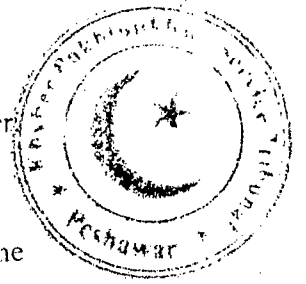
Affidavit

I, Maqsood Ali Advocate Affirm on oath that, each para of this Petition is true to the best of knowledge and believe and nothing has been conceal from this honorable tribunal



Maqsood Ali
Deponent

26th July, 2022



1. Nobody is present on behalf of the petitioner Respondent alongwith his counsel present.

2. There is nobody present on behalf of the petitioner and it is 20 past 1 O'clock. Called for several times but no one appeared on behalf of the petitioner's side. Learned counsel for the respondent present and when confronted with the situation that previously the case was adjourned because of note Reader, he submitted there was no concept of issuance notices to the parties and their counsel when the previous date was changed due to note Reader and it was the duty of the parties to confirm the date from the Reader of the Court. especially when the petitioner had been attended through counsel. He insisted that the Tribunal should proceed under Rule-19 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974. This application is, therefore, dismissed in default. Consign.

3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 26th day of July, 2022.

[Signature]

(Salah Ud Din)
Member(Judicial)

[Signature]

(Kalim Arshad Khan)
Chairman

27-7-2022

[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

[Signature]

10/7

10/7

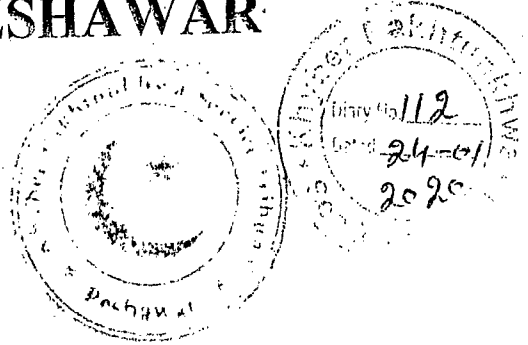
29-7-2022

29-7-2022

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**BEFORE THE HONORABLE SERVICE
TRIBUNAL PESHAWAR**

CM No. 32/2020
in
CM No.302/2018



Applicants: Nisar Ahmad and others

Vs.

Respondent: Asad Mehmood

Application for restoration of Petition (the "Petition") filed Misc.302/2018 under s.12(2) CPC by the Applicants, wherein, the Judgment and the Decree dated 15/05/2015 in the Appeal No.547/2013 (the "Appeal") titled '*Asad Mehmood v Nasir Durrani and others*' passed by the Learned Service Tribunal Peshawar in favor of the Respondent has been challenged.

Most Respectfully Submitted That,

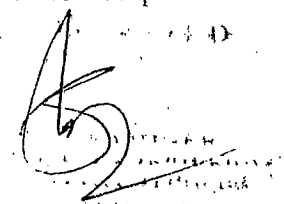
1. The Applicants filed the Petition under section 12(2) CPC challenging the Judgment and Decree in the Appeal passed by the Learned Service Tribunal Peshawar in favor of the Respondent infringing the valid and legal rights of the Applicants pending its execution vide the Execution Petition No.168/2016 (the "Execution Petition").
2. That applicants was attended the hearing with the learned member Mr. Amin Kundion the month April and then the next date of hearing has noted for dated 29/11/2019 but when the Counsel of applicants has attend the mentioned date of hearing then the learned member of this honourable tribunal has informed that Applicants Counsel Court then

2

the honourable member of the tribunal has informed that the Application U/s 12(2) Cpc was dismissed in default on dated 28 May 2018 and then on dated 29/11/2019 the Counsel of applicants got Knowledge of the fact applied for obtaining attested copies of the orders of dismissal in default.

That after filling application for requisition of certified copy of the mentioned orders time in again the counsel of Applicants has asked for order but the office has sought further time but they failed to do so then the Counsel of applicant has informed the honourable Chairman of the Tribunal and the on next Monday dated 13/1/2020 the office has handed over the certified copy of dismissal in default Order.

3. Respondent has badly failed in establishing a *prima facie* case in his favor and the Appeal and the Execution Petition is liable to be dismissed on numerous legal and factual grounds.
4. The balance of convenience strictly lies in favor of the Applicants who despite being necessary parties to the case have not been impleaded in the Appeal and the Execution Petition in bad faith by the Respondent.
5. Substantive rights of the Applicants are in issue in the Petition decided in *absentia* of the Applicants and they would suffer irreparable losses if the interim relief sought through this Application is not granted.
6. The contents of the Petition may kindly be considered an integral part of this Application.
7. The Applicants are filing this Application through Counsel Mr. Maqsood Ali Advocate High Court who is duly authorized via a power of attorney and is competent to file



3

this Application on the Applicant's behalf and is acquainted with the facts of the case which he can depose on oath.

Applicants

Through *Saud Khan*

Barrister Saud Khan

Lincoln's Lawyers and Consultants
2nd Floor, Bilal Market, Phase-I,
Hayatabad, Peshawar.

Mobile: 0334-051-0334

Phone: 091-500-2487

saud1792@yahoo.com

Affidavit

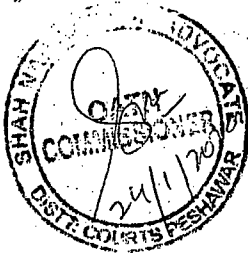
I, Maqsood Ali Advocate High Court, attorney of the Applicants, declare on oath that the contents of this Application are true and correct to the best of my knowledge and belief.

M. al

Deponent

Maqsood Ali Khattak
Advocate High Court

ATTESTED



Date of Affidavit

27-7-22

Number of Affidavits

15/200

Cost of Affidavit

15/-

Number of Affidavits

15/-

Number of Affidavits

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Number of Affidavits

28/7/22

Number of Affidavits

28/7/22

Number of Affidavits

Confirmed to the court copy

[Signature]
City of Peshawar
Service of Affidavit
Peshawar