

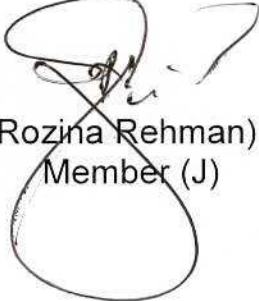
09.05.2022

Nemo for petitioner.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.


Case was called time and again but none appeared on behalf of petitioner till rising of the Bench. As such the instant restoration application stands dismissed in default for non-prosecution. No order as to costs. File be consigned to the record room.

Announced  
09.05.2022

  
(Rozina Rehman)  
Member (J)

16.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 12.04.2022 for the same as before.



Reader

12.04.2022

Petitioner present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Muhammad Faizan S.O (Litigation) for respondents present.

Respondents submitted reply of the application. Learned counsel for petitioner requested for a short adjournment in order to produce certain reported judgments in support of his stance. Last chance is given. To come up for arguments on application seeking restoration of appeal on 09.05.2022 before S.B.



(Rozina Rehman)  
Member (J)

Restoration application No. 385/21

21.01.2022

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG Mr. Muhammad Saleh Mushtaq, ADEO for the respondents present. Copy of restoration application handed over to the said representative.

Learned AAG seeks short adjournment in order to contact the concerned respondents for submission of reply on next date positively. Request accorded. Case to come up for Reply/arguments on application for restoration of the appeal on 25.01.2022 before S.B.

  
Chairman

25.01.2022

Clerk of counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Saleh Mushtaq, ADEO for the respondents present.


Representative of the respondents seeks further time for submission of reply to the application. Request accorded. Case to come up for reply/arguments on application for restoration of the appeal on 16.02.2022 before S.B.

  
Chairman

05.01.2022

Junior to counsel for the petitioner and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

No representative of the respondents is in attendance nor their written reply received. Fresh notices be issued to the respondents through registered post for next date. To come up for reply and arguments on restoration application on 05.01.2022 before S.B.

  
Chairman

13.01.2022

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG for respondents are present.

Learned AAG seeks time to contact the respondents and furnish reply. Request accorded. To come up for reply and arguments on restoration application on 20.01.2022 before S.B.

  
Chairman

20.01.2022

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG seeks short adjournment to contact the respondents and submit reply to the application for restoration of appeal. Request accorded. Case to come up for Reply/arguments on application for restoration of the appeal on 21.01.2022 before S.B.




  
Chairman

Form-A

FORM OF ORDER SHEET

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

Restoration Application No. 385/2021

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.12.2021	<p>The application for restoration of Appeal No. 406/2012 submitted today by Syed Noman Ali Bukhari 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><i>Notice copy given 23/12/21</i></p>	<p>This restoration application is entrusted to S. Bench to be put up there on <u>23/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	23.12.2021	<p>Counsel for the petitioner present.</p> <p>Notices be issued to the respondents. To come up for reply and arguments on restoration application on 04.01.2022 before S.B</p> <p style="text-align: right;"> Chairman</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR**

R/A NO: 385/2021

SERVICE APPEAL NO: 406/2012



AKHLAQ AHMAD

VS

EDUCATION DEPARTMENT

**APPLICATION FOR RESTORATION OF APPEAL NO: 406/2012 WHICH WAS  
DISMISSED IN DEFAULT VIDE ORDER DATED 20.05.2015, WHEREIN THE  
APPLICANT WAS APPELLANT NO.14.**

**RESPECTFULLY SHEWETH:**

**FACTS:**

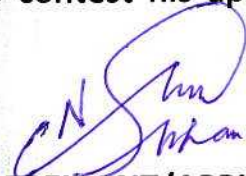
1. That the applicant filed writ petition along with other petitioners which was treated as appeal and transmitted to Khyber Pakhtunkhwa Service Tribunal for decision according to law vide order dated: 20/03/2012.
2. That the appeal was fixed for preliminary hearing on 17-04-2012 at Camp Court Abbottabad.
3. That on 17-04-2012 the court issued direction to file appeals in proper form in accordance with relevant laws.
4. That the above title appeal was pending before the honourable Tribunal, which was dismissed in default on 20-05-2015. (Copy of order is attached as ANNEXURE "A")

**GROUNDS:**

- a. That the applicant was never informed about the proceedings, it is obvious from order sheet dated 17-04-2012, only appellant No. 1 was present. Moreover, it is evident from other order sheets as well that I have never been in attendance as I was not intimated.
- b. That on 27-08-2012 the attendance of clerk to counsel was marked, but I neither submitted any fresh wakalatnama, nor any counsel or his clerk informed me about the proceedings.
- c. That on 17-02-2014 appellant No. 03 marked his attendance on his behalf and behalf of other appellants, but no one informed me regarding the proceedings.
- d. That it is against the ends of justice to technically knock out the present service appeal.
- e. That if this august tribunal restores the instant appeal, the appellant will attend the court regularly.
- f. That any other ground would be agitated at the time of arguments.

**PRAYER:**

It is, therefore, most humbly prayed that on acceptance of this application the above titled appeal may kindly be restored on the above mentioned grounds, so that appellant can file appeal in proper form in accordance with relevant Laws and enable him to contest his appeal on merit.



**APPELLANT/APPLICANT**  
(NASRULLAH KHAN) DM  
GHS DARWESH, HARIPUR

Through:



**SYED NOMAN ALI BUKHARI,**  
ADVOCATE HIGH COURT

**AFFIDAVIT**

I, (NASRULLAH KHAN) DM GHS DARWESH, HARIPUR do hereby solemnly affirm on oath that the contents of the above application are true & correct to the best of my knowledge & belief and nothing has been concealed from this honourable Tribunal.



**DEPONENT**



**BEFORE THE PESHAWAR HIGH COURT  
ABBOTTABAD BENCH**



*Appeal no 406/2012*

W.P No. 688/2010

1. Akhlaq Ahmed clerk office of EDO Elementary and Secondary Education, Haripur.
2. Babu Ismail PST, Govt. Model Primary School, Haripur.
3. Tariq Mehmood PST, GPS Jatti Pind Haripur.
4. Syed Akseer Hussain Shah CT, GMS Kohala Bala, Haripur.
5. Imran Yaqoob PET, GMS Shadi Haripur.
6. Samina Bibi TT, GGMS Muradabad, Haripur.
7. Arbun Nisa PET, GGHS No. 2, Haripur.
8. Sabia Shaheen CT, GGMS Talokar, Haripur.
9. Farah Diba, PET, GGMS, Pharhala, Haripur.
10. Sobia Daud PET, GGCMHS No.1, Haripur.
11. Nighat Bibi PET, GGMS Kakotri, Haripur.
12. Mobeen Akhtar PET, GGMS Baldher, Haripur.
13. Rukhsana CT, GGHS Kahal, Haripur.
14. Nasrullah Khan DM, GHS Darwash, Haripur.
15. Ulfat Hussain son of Qazi Ghulam Mujtaba, A.T Govt. High School No.2 Haripur.
16. Khalid Khan son of Samad Khan, C.T Govt. High School Baitgali Haripur.

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

...PETITIONERS

VERSUS

1. Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar.
2. Government of Khyber Pakhtunkhwa, through, Secretary Elementary and Secondary Education Peshawar.
3. Director Elementary & Secondary Education, KPK, Peshawar.
4. Executive District Officer, Elementary & Secondary Education, District Haripur.
5. Secretary Law, Parliamentary Affairs and Human Rights Department, Khyber Pakhtunkhwa, Peshawar.
6. Secretary Establishment and Administration Department, Khyber Pakhtunkhwa, Peshawar.


...RESPONDENTS

*126/11/10*




16.12.2014

Appellant/petitioner No. 1 on his own behalf and on behalf of other petitioners/appellants present. The Tribunal is incomplete. To come up for further proceedings/preliminary hearing at camp court A/Abad on 20.04.2015.

  
Reader.

10 20.4.2015

None present for appellant due to Note Reader. Notice to counsel for the appellant be issued for preliminary hearing at Camp Court A/Abad for 20.5.2015.

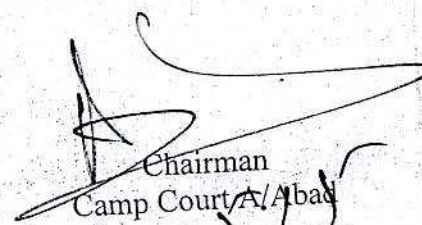
  
Chairman  
Camp Court A/Abad



11 20.5.2015

None present for appellant despite issuance of notice to appellant and his counsel through registered post. The Court time is about to over. The appeal is, therefore, dismissed for want of prosecution. File be consigned to the record.

ANNOUNCED  
20.5.2015

  
Chairman  
Camp Court A/Abad

20.05.15

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF kp Service Tribunal, Peshawar

Akhlaq Ahmad

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Education Deptt.

(Respondent)  
(Defendant)

I/We, ~~A~~ Nasrullah - DO GHS, Darwesh, Haripur

Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

(CLIENT)

ACCEPTED

**SYED NOMAN ALI BUKHARI**  
Advocate High Court Peshawar.

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

RA No. 385/2021

IN

SA No. 406/2012

Akhlaq Ahmad

**Versus**

Education Department

(Respondents)

**Respectfully Sheweth:**

Para wise reply/Comments for and on behalf of respondent.

**Preliminary Objections:**

- 1 That the applicant has got no cause of action to file the instant application.
- 2 That the applicant has not come to this Honorable Court with clean hands.
- 3 That the Applicant has got no locus standi to file the instant application.
- 4 That the applicant has concealed the material facts from this Honorable Court, hence the application in hand is liable to be dismissed.
- 5 That the applicant has filed the instant application on malafide motives.
- 6 The applicant has filed the instant application just to pressurize the respondent.
- 7 That the applicant is estopped by his own conduct to file the present application.
- 8 That the appeal of the applicant has been dismissed by the Honorable Service Tribunal due to absence from hearing in two consecutive dates fixed for hearing. **(Copy of order is attached as Annex-A)**

**REPLY/COMMENTS ON FACTS ARE AS UNDER:**

1. Para 1 pertains to the writ petition filed by the applicant which was transmitted to Honorable Khyber Pakhtunkhwa Service Tribunal for decision, hence needs no comment.
2. Para 2 is correct.
3. Para 3 pertains to the direction for proper filing of appeal, hence needs no comments.
4. Para 4 is incorrect. The appeal of the applicant has been dismissed by the Honorable Service Tribunal due to absence from hearing in two consecutive dates fixed for hearing.

**GROUNDS:**

- a. Incorrect, that the applicant has appeared before the Honorable Tribunal on 16-12-2014 which clearly shows that the applicant was informed about the proceedings.
- b. Incorrect, that on 27-08-2012 the clerk to the counsel has attended the Tribunal on the behalf of all the appellants including the applicant.
- c. Incorrect, that on 17-02-2014 appellant No. 3 has attended the court on the behalf of the applicant which clearly shows that the applicant was informed about the proceedings.
- d. Incorrect, that the appeal of the applicant has been dismissed in accordance with law, rule and policy which has gotten finality in the eyes of law.
- e. Incorrect, that the appeal of the appellant cannot be restored only to the ground of confirmation from the appellant to attend the court regularly.
- f. That the other points shall be agitated at the time of arguments with the leave of this Honorable Tribunal.

**PRAYER**

In view of the above made humble submissions, it is most respectfully prayed that on acceptance of foregoing factual position/ Comments, the instant application may very graciously be dismissed being meritless.

**RESPONDENTS**

District Education Officer (M)  
Haripur.



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