

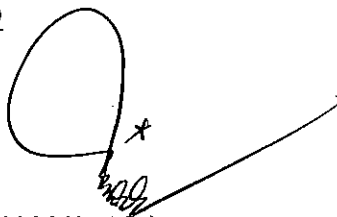
ORDER
26.08.2021

Mr. Asif Yousafzai, Advocate, for the petitioner present. Mr. Usman Ghani, District Attorney for the respondents present. Record of Service Appeal bearing No. 446/2016 requisitioned and received. Arguments on restoration application heard and record perused.

The Service Appeal bearing No. 446/2016 titled "Qaisar Alam Versus Government of Khyber Pakhtunkhwa through Additional Chief Secretary, Planning & Development Department, Civil Secretariat, Peshawar and four others", was dismissed for non-prosecution vide order dated 18.01.2021. The ground as agitated in the restoration application is that as learned counsel for the petitioner/appellant was busy in the august Peshawar High Court, Peshawar, therefore, he could not appear before the Tribunal, which resulted into dismissal of the appeal. The petitioner has submitted application for restoration of appeal on 28.01.2021 which is within time. The application for restoration is supported by duly sworn affidavit. Moreover, law also favours adjudication on merit by avoiding technicalities.

The application in hand is, therefore, allowed and the Service Appeal bearing no. 446/2016 stands restored on its original number. Copy of this order be placed on file of Service Appeal bearing No. 446/2016. File be consigned to the record room after necessary completion and compilation.

ANNOUNCED
26.08.2021



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)


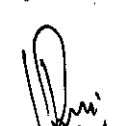
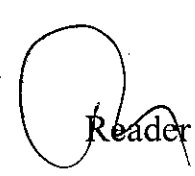


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

FORM OF ORDER SHEET

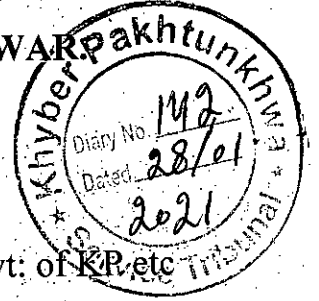
Court of _____

Restoration Application No. 40 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28.01.2021	<p>The Restoration Application submitted by Mr. Qaisar Alam through Mr. Muhammad Asif Yousafzai 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-	30.04.2021	<p>This Restoration Application be put up before Bench on <u>30.04.2021</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 26.08.2021 for the same as before.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

Appeal No. 446/2016



Qaiser Alam

V/S

Govt. of K.P. etc

.....
**APPLICATION FOR RESTORATION OF INSTANT APPEAL
WHICH WAS DISMISSED IN DEFAULT DUE TO NON
PROSECUTION ON 18.01.2021**
.....


RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 18.11.2015 and for conversion of extra ordinary leave of deputation period with full benefits.
2. That instant appeal was fixed on 18.01.2021 before this august Tribunal in argument stage, however the counsel of the appellant was busy in High Court Peshawar due to which he could not attend the case on the day fixed and the instant appeal was dismissed in default due to non prosecution. (Copy of order sheet dated 18.01.2021 is attached as Annexure-A)
3. That the appellant has good prime facie case and have hope for its acceptance, therefore, it will be interest of justice to decide the case on merits rather than dismissed in default.

It is, therefore, most humbly prayed that on acceptance of this application, the appeal may kindly be restored which was dismissed in default due to non prosecution on 18.01.2021.

APPELLANT

THROUGH:


(M.ASIF YOUSAFZAI)

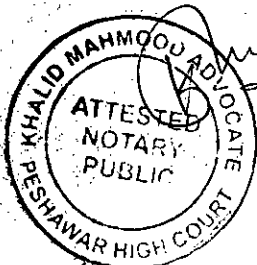
ASC

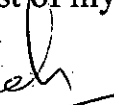

(TAIMUR ALI KHAN)

AHC

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.



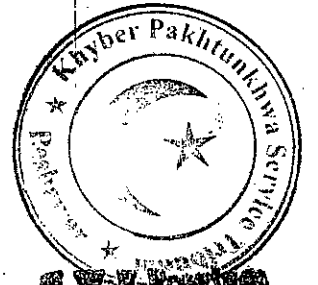

28-1-21


DEPONENT

①

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

Appeal No. 446 /2015



**K.P.S.T. Peshawar
Service Tribunal**

Diary No. 1457

dated 17-12-2015

Mr. Qasim Alam, Assistant Chief,
Agriculture & Environment Planning and
Development Department, Peshawar.

APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Additional Chief Secretary, Planning & Development Department, Civil Secretariat, Peshawar.
2. The Secretary, Government of Khyber Pakhtunkhwa, Planning & Development Department, Civil Secretariat, Peshawar.
3. The Deputy Secretary (Admn), Government of Khyber Pakhtunkhwa, Planning & Development Department, Civil Secretariat, Peshawar.
4. The Secretary, Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar.
5. The Secretary, Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 18.11.2015 passed by respondent department WHEREBY THE Honourable KPK Service Tribunal remitted the case to the respondent department in its Judgment dated 11.08.2015 which was passed in Appeal No.1465/2015 FOR CONVERSION OF EXTRA ORDINARY LEAVE (EOL) INTO DEPUTATION AND AWARDING REGULAR PAY / SALARY IN TERMS OF NOTIFICATION DATED 14.05.2005 IS REGRETTEED.

.....

Filed to-day

Registrar

17/12/15

co-submitted to-day
and filed.

Registrar

26/1/16

Certified to be true copy

**EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar**

Appeal No. 446/2016
Qaisar Alam vs Govt



18.01.2021

Nemo for the appellant. Addl. A.G alongwith Muhammad Irshad, Assistant for the respondents present.

It is already past 02.10 P.M and despite repeated calls no one appeared on behalf of the appellant. It is, therefore, dismissed for non-prosecution. File be consigned to the record.

(Mian Muhammad)
Member(E)

Chairman

ANNOUNCED

18.01.2021

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 28-01-2021
Number of Words 800
Copying Fee 10.00
Urgent 4-
Total 14.00
Name of Copyist _____
Date of Completion of Copy 28-01-2021
Date of Delivery of Copy 28-01-2021

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 446/2016

R.A. NO 40/2021

Qaiser Alam

V/S

Govt: of KP etc

.....
**APPLICATION FOR RESTORATION OF INSTANT APPEAL
WHICH WAS DISMISSED IN DEFAULT DUE TO NON
PROSECUTION ON 18.01.2021**
.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 18.11.2015 and for conversion of extra ordinary leave of deputation period with full benefits.
2. That instant appeal was fixed on 18.01.2021 before this august Tribunal in argument stage, however the counsel of the appellant was busy in High Court Peshawar due to which he could not attend the case on the day fixed and the instant appeal was dismissed in default due to non prosecution. (Copy of order sheet dated 18.01.2021 is attached as Annexure-A)
3. That the appellant has good prime facie case and have hope for its acceptance, therefore, it will be interest of justice to decide the case on merits rather than dismissed in default.

It is, therefore, most humbly prayed that on acceptance of this application, the appeal may kindly be restored which was dismissed in default due to non prosecution on 18.01.2021.

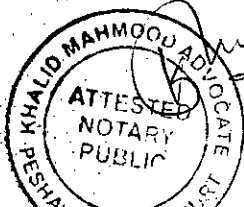
APPELLANT

THROUGH:

M. Asif Yousafzai
(M.ASIF YOUSAFZAI)
ASC
Taimur Ali Khan
(TAIMUR ALI KHAN)
AHC

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.

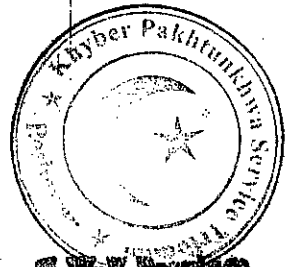


Qaiser Alam
DEPONENT

0

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

Appeal No. 446 /2015



Mr. Qasim Alam, Assistant Chief,
Agriculture & Environment Planning and
Development Department, Peshawar.

**Khyber Pakhtunkhwa
Service Tribunal**

Slary No. 1457

Dated 17-12-2015

APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Additional Chief Secretary, Planning & Development Department, Civil Secretariat, Peshawar.
2. The Secretary, Government of Khyber Pakhtunkhwa, Planning & Development Department, Civil Secretariat, Peshawar.
3. The Deputy Secretary (Admn), Government of Khyber Pakhtunkhwa, Planning & Development Department, Civil Secretariat, Peshawar.
4. The Secretary, Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar.
5. The Secretary, Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 18.11.2015 passed by respondent department WHEREBY THE Honourable KPK Service Tribunal remitted the case to the respondent department in its Judgment dated 11.08.2015 which was passed in Appeal No.1465/2015 FOR CONVERSION OF EXTRA ORDINARY LEAVE (EOL) INTO DEPUTATION AND AWARDDING REGULAR PAY / SALARY IN TERMS OF NOTIFICATION DATED 14.05.2005 IS REGRETTED.


.....

Filed to-day
Registrar
17/12/15

Re-submitted to-day
and filed.

Registrar
26/14/16

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


Appeal No. 446/2016
Qaisar Alam vs Govt



18.01.2021

Nemo for the appellant. Addl. A.G alongwith Muhammad Irshad, Assistant for the respondents present.

It is already past 02.10 P.M and despite repeated calls no one appeared on behalf of the appellant. It is, therefore, dismissed for non-prosecution. File be consigned to the record.


(Mian Muhammad)
Member(E)


Chairman

ANNOUNCED

18.01.2021

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 28-01-2021
Number of Words 800
Copying Fee 10.00
Urgent 4-
Total 14.00
Name of Copy -
Date of Completion of Copy 28-01-2021
Date of Delivery of Copy 28-01-2021