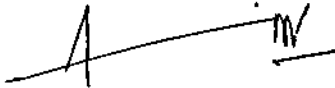


Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. **40/2023**

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.01.2023	<p>The application for restoration of Appeal No. 04/2021 submitted today by Mr. Muhammad Irshad Mohmond Advocate. It is fixed for hearing before touring Single Bench at Swat on . Original file be requisitioned. Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Restoration No = CM No A 40 / 2023

In Service Appeal No: 04/ 2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3038

Dated 18-1-2023

Ejaz s/o Khan Pur Khan Ex Khasadar Regiment No 5570
District Bajaur (Applicant / Appellant)


VERSUS

Government of KPK through Secretary Home & Tribal Affair
Department Peshawar & others (Respondents)

INDEX

S.No	Description of Documents	Annex	Pages
1.	Application for restoration		1-3
2.	Affidavit		4
3	Application for condonation		5-6
4.	Copy of Order dated 02-06-2021 & Judgment / Order dated 13-10-2021 Passed by this Honorable Tribunal	"A"	7-9
5	Wakalat Nama		10


Applicant / Appellant: Ejaz
Through


Muhammad Irshad Mohmand
Advocate High Court
Peshawar

0300-5917744

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

RA:
CM No: 40 /2023

In Service Appeal No:04/ 2021

Ejaz s/o Khan Pur Khan Ex Khasadar Regiment No 5570
District Bajaur (Applicant / Appellant)

VERSUS

Government of KPK through Secretary Home & Tribal Affair
Department Peshawar & others (Respondents)

**APPLICATION FOR RESTORATION OF ABOVE
MENTIONED APPEAL WHICH WAS DISMISSED FOR
NON COMPLIANCE AS WELL AS FOR NON-
PROSECUTION VIDE ORDER DATED 13/10/2021 BY
THIS HONORABLE TRIBUNAL AND THE SAME BE
DECIDED ON MERIT.**

RESPECTFULLY SHEWETH:-

The applicant submits as under:-

1. That the above noted appeal was filed by the applicant / appellant, and was admitted for regular hearing on 02-06-2021 and adjourn for 13-10-2021 for deposit of Security.
2. That as such the counsel for the applicant was from Islamabad and the applicant belongs to tribal district of Bajaur but the counsel for the applicant did not appear before this Honorable Tribunal on the date fixed, nor the learned counsel guided the applicant for pursuing the appeal

3. **That** the counsel for the applicant did not inform the applicant about the proceeding of the case nor informed the applicant from the next date of hearing.
4. **That** the conduct of the counsel also shows that she had given favour to respondent and did not appear before this Honorable Tribunal so that the case be dismissed for non prosecution.
5. **That** recently when the applicant tried to contact his counsel but could not contact, therefore the applicant approached this Honorable tribunal to inquire about his case & on obtaining the attested copy of the order, its came to the notice of the applicant that the case of the applicant has been dismissed for non-prosecution on 13/10/2021.
6. **That** the petitioner request for setting aside the order dated 13/10/2021 regarding the dismissal of his appeal for non-prosecution and request to restore the same on the following grounds.

GROUNDS

- A. **That** in the above titled appeal valuable a rights of applicant is involved and the applicant was not informed by his counsel about the date fixed, therefore the dismissal of appeal for non-prosecution of the appeal is illegal, unwarranted, unjustified.
- B. **That** as such the counsel for the applicant was female and hails from Islamabad and the applicant also belongs to tribal district of Bajaur but the counsel for the applicant did not appear before this Honorable Tribunal on the date fixed.
- C. **That** nor the counsel for the applicant inform the applicant about the proceeding of the case nor conveyed the next date of hearing to the applicant.
- D. **That** the applicant has a very good, strong and prima facie case against the respondent and the livelihood of the applicant is involved in the instant matter, therefore without hearing & deciding the case on merit is amount to condemned unheard.

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- E. That the applicant has not been informed by the counsel about the next date & proceeding nor any notice has been served on the applicant by this Honorable tribunal, therefore the dismissal of the appeal of the appellant for non-prosecution is not legal and justified in the circumstances of the case.
- F. That the dismissal of the appeal for non-prosecution on technical ground of non-appearance of Counsel in the light of law enunciated by the august Court is not warranted and justified, as the impugned order of dismissal from service of the applicant is totally illegal and against the settle procedure of law.
- G. That the law favour adjudication of case on merits rather than to dismiss the same for non prosecution and it is also in the interest of justice and fair-play to decided the case on merits.
- H. That when this Honorable Tribunal while admitting the appeal for regular hearing had also came to the conclusion that the impugned removal order is totally illegal and against the service law, therefore the appeal dismissed for non-prosecution is liable to restore for deciding on merit.
- I. That this Honorable tribunal has ample power to restore the appeal of the applicant by condoning the delay and to decide the matter on merit instead of technicality.

Prayer:-

It is, therefore, prayed that on acceptance of this application, the impugned order dated 13/10/2021 of dismissal of appeal for noncompliance & non-prosecution passed by this Tribunal may kindly be set aside and the appeal of the appellant may graciously be restored and be decided on merits.



Applicant / Appellant: Ejaz
Through



Muhammad Irshad Mohmand
Advocate High Court
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

In CM No

/2023

Ejaz s/o Khan Pur Khan Ex Khasadar Regiment No 5570
District Bajaur (Applicant / Appellant)

VERSUS

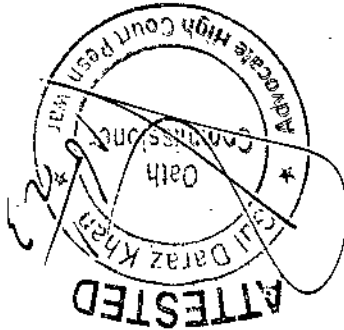
Government of KPK through Secretary Home & Tribal Affair
Department Peshawar & others
(Respondents)

AFIDAVIT

I Ejaz s/o Khan Pur Khan Ex-Khasadar Regiment No 5570
District Bajaur, do hereby declare that the contents of this
application is true and correct to the best of my knowledge &
belief and nothing has been concealed from this Honorable
Tribunal.

DEPONENT

0363-8132295



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

CM No /2023

Ejaz s/o Khan Pur Khan Ex Khasadar Regiment No 5570
District Bajaur (Applicant / Appellant)

VERSUS

Government of KPK through Secretary Home & Tribal Affair
Department Peshawar & others (Respondents)

**APPLICATION FOR CONDONATION OF DELAY
IN FILING OF APPLICATION FOR
RESTORATION OF APPEAL WHICH WAS
DISMISSED FOR NON-PROSECUTION**

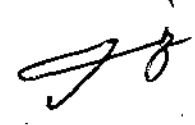
Respectfully Sheweth:-

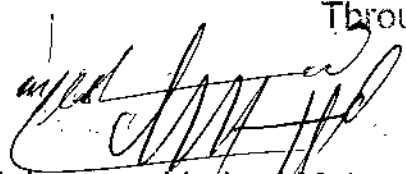
1. That the applicant / appellant is filing the instant application accompanying with restoration application before this Honorable Tribunal.
2. That the applicant gained the knowledge of dismissal of appeal after obtaining the copy of the order of this Honorable Tribunal, therefore the application filed by the applicant for restoration is within time.
3. That the Counsel for the applicant has made collusion and intrigue with respondent in not pursuing the case on behalf of applicant and extended illegal benefit to the respondent by dismissing the case of applicant for non-prosecution.
4. That the counsel for the applicant did not inform the applicant from the date fixed but also kept the Appellant in dark by not disclosing the actual fact of the dismissal of case for non-prosecution.

- 5. That the appellant has recently obtained the attested copy of the order of this Honorable tribunal wherefrom the applicant came to know of the dismissal of appeal for non prosecution if there is any delay in filing the restoration application that is not intentional but due to the above mentioned reason.
- 6. That in the circumstances explained above if there is any delay in filling of application that may kindly be condoned in the interest of justice
- 7. That this Honorable Tribunal have ample power to condone the delay if any in filling of application for restoration by condoning the delay and to decide the case merit instead of technicality in the larger interest of justice and fair-play.

Prayer:-

It is therefore, prayed that on acceptance of this application, the delay if any in filing application for restoration of application may kindly be condoned in the interest of justice and the appeal be decided on merits.



Applicant / Appellant: Ejaz
Through

Muhammad Irshad Mohmand
Advocate High Court
Peshawar

[Faint handwritten notes]

⑦ Annex 'A'



BEFORE THE KPK SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____ (P)CS/202

Ejaz S/O Khan Pur Khan, Ex-Khasadar, Regiment # 5570, Khasadar Force.

Address for the purpose of service

R/O Khar, Tehsil Khar Bajour, District Bajour Agency.

Appellant

VRESUS

Khyber Pakhtunkhwa
Service Tribunal

1. Government of KPK through its secretary, Home and Tribal Affairs
Department, Khyberpakhtukhawan.

Case No. 06

Dated 04/01/2021

2. Provincial Police officer, Khyber Pakhtukhawan.

3. District Police Officer, Comandant Ex Levies & Khasadar Force Bajour.

Respondents

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974.

Respectfully Sheweth:-

In pursuance of KPK Khassadar & Levies Force Act 2019, both forces have been merged/absorbed in KPK police, consequently the jurisdiction of FST has been ousted and now the departmental/competent authorities are Respondents # 1 to 3. Keeping in view the above circumstances the Hon'ble FST, has disposed off all pending appeals/litigation vide Judgment dated 04.12.2019 (Annexure A1), by directing the respective competent authorities i.e Respondents No.1 to 3 to entertain appeals as representation/departmental appeals and to decide afresh after giving the opportunity of personal hearing. But the respondents did not pay any heed towards grievances of appellant and other colleagues those are running from pillar to post and facing hardships of prolong judicial proceeding, hence filing this appeal on the following facts and grounds.

FACTS

1. That the appellant filed the Appeal # 611(P)CS/2016 was filed against this dismissal/termination order from service whereby the Appellant was reinstated in service vide a consolidated judgment dated 06.03.2017, it was further observed that the Hon'ble Federal Service Tribunal that the Respondents may held detail inquiry as per law. (Copy of the Judgment is enclosed as Annexure-C).

2. That the Appellant instead of reinstating the appellant on service as they have reinstated identical employees previously initiated the departmental proceedings against the appellant by reinstating the

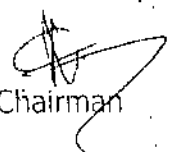
Filed to-day
Registrar

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



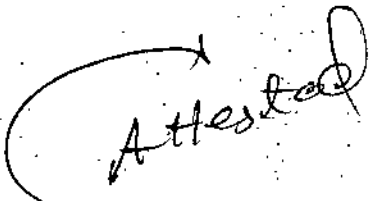
02.06.2021 Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 13.10.2021 before the D.B.


Chairman

ATTESTED

EXAMINER
Shyler K. K. K. K.
Service Tribunal
Peshawar


Attested

13.10.2021

Appeal No. 4/2021

9

Nemo for appellant.



Still, security and process fee has not been deposited. Case was called time and again but neither appellant nor his counsel appeared. Consequently, instant service appeal is dismissed in default for non-compliance of orders as well as for non-prosecution. No order as to costs. File be consigned to the record room.

Announced
13.10.2021

(Atiq-Ur-Rehman Wazir)
Member (E)

(Rozina Rehman)
Member (J)

Certified true copy

EXCISE & TAX
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 11-01-23
Number of Page 3-P
Copying Fee 15/-
Ur. ent. _____
Total 15/-
Name of C _____
Date of Completion of Copy 12-01-2023
Date of Delivery of Copy 12-01-2023



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50	4672			
ایڈویکٹ: <i>[Signature]</i>				
بار کونسل ایسوسی ایشن نمبر: be-12-3483				
رابطہ نمبر: 0300-5917744		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		

بعدالت جناب: *[Signature]* K.P.K. کور

منجانب: <i>[Signature]</i>	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آگہ

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

آن مقام *[Signature]* محمد اسد گل محمد اسد گل کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر 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 کی طرف 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 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور ان کا ساختہ پر داخست 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

الموقع: *[Signature]* محمد اسد گل
 Adept
 muhammad
 mohammad
 223

المقام: *[Signature]* کور
 0300-5917744

نوٹ: اس وکالت نامہ کی فونیکالی قابل قبول ہوگی۔
[Signature]

گزارش