

ORDER

28.01.2022

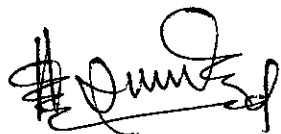
Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of Service Appeal bearing No. 5/2018 titled "Noor-UI-Amin Versus The Regional Police Officer, Malakand, Saidu Sharif Swat", the impugned orders are set aside and the appellant is re-instated in service. Since the appeal is decided on technical grounds more so while keeping in view the conduct of the appellant, he is not entitled to any of the back benefits, hence the absence period as well as the intervening period during which the appellant not performed duty shall be treated as extra-ordinary leave without pay. The department is at liberty to conduct de-novo inquiry against the appellants in accordance with law. Parties are left to bear their own costs. File be consigned to record room.

SCANNED
KPST
Peshawar

ANNOUNCED

28.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN




(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

25.01.2022

Petitioner in person and Mr. Asif Masood Ali Shah,
DDA for the respondents present.

Arguments on restoration application heard.

The application in hand has been submitted on 11.01.2019 for restoration of the appeal, dismissed for non-prosecution on 31.12.2018. The application is well within time and duly supported by affidavit. Therefore, application is accepted and the appeal is restored to its original number. To come up for arguments on main appeal on 27.01.2022 before the D.B.


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


Chairman

q

01.03.2021

Due to COVID-19, the case is adjourned for the same on 01.06.2021 before D.B


READER


01.06.2021

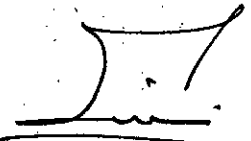
Nemo for the appellant. Mr. Khawas Khan, Inspector (Legal) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Today's date was posted on Note Reader, therefore, notice for prosecution of the appeal be issued to appellant as well as his counsel and to come up for further proceedings before D.B on 09.09.2021.

*Note
10-6-2021*

10-6-2021


(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

09.09.2021

Junior to counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 25.01.2022 before D.B.


(Rozina Rehman)
Member (J)


Chairman

_____.2020

Due to COVID19, the case is adjourned to

12/8/2020 for the same as before.


Reader

12.08.2020


Due to summer vacations case to come up for the same on
15.10.2020 before D.B.

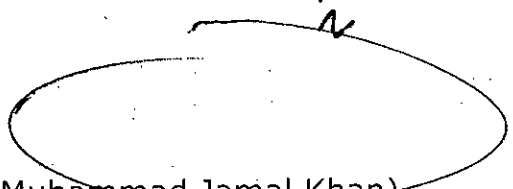

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15.10.2020

Miss. Uzma Syed, Advocate for appellant is present. Mr.
Kabirullah Khattak, Additional Advocate General for the respondents
is also present.

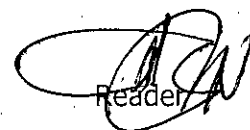
Learned counsel for the appellant is seeking adjournment.
Adjourned to 09.12.2020 on which to come up for further proceedings
before D.B.


(Atiq-ur-Rehman Wazir)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

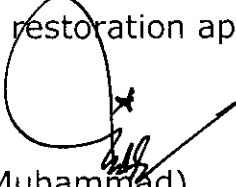
09.12.2020

Due to COVID-19, case is adjourned to 01.03.2021 for the
same as before.


Reader

20.03.2020

Due to general strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 22.05.2020 for arguments on restoration application before D.B.



(Mian Muhammad)
Member


(M. Amin Khan Kundi)
Member

03.09.2019

Learned counsel for the appellant present. Mr. Riaz Khan Paindakhel learned Assistant Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 15.11.2019 before D.B.

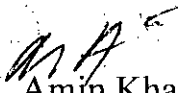

(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

15.11.2019

Syed Noman Bukhari, learned counsel for the applicant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the applicant requested for adjournment. Adjourned to 14.01.2020 for arguments on restoration application before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

14.01.2020


Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the applicant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 24.02.2020 for arguments on restoration application before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

24-2-2020

The Bench is incomplete
therefor case is adjourned
to 20-3-2020


Reader

16.04.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Mir Faraz DSP for the respondents present and submitted written reply on behalf of the respondents No. 1 & 2. Adjourned. To come up for argument on restoration application on 31.05.2019 before D.B. Original record be also requisitioned for the date fixed


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

31.05.2019

Clerk to
Counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Mir Faraz DSP for the respondents present. Clerk to counsel for the appellant requested for adjournment as counsel of the appellant is not in attendance. Adjourned. To come up for arguments on 10.07.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

10.07.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 03.09.2019 before D.B.



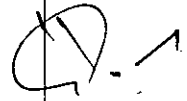


Member


Member

FORM OF ORDER SHEET

Court of _____

Misc. Application No. 15/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/01/2019	<p>The application for restoration of Appeal No. 07/2018 submitted by Mr. Saeed Ullah through Uzma Syed 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> <p>This Misc. application be put up before DB-II Bench on <u>4-3-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	04.03.2019	<p>Counsel for the petitioner present. Notice of restoration application be issued to the respondents. To come up for reply and arguments on restoration application on 16.04.2019 before D.B.</p> <p style="text-align: center;"> (M. HAMID MUGHAL) MEMBER</p> <p style="text-align: center;"> (M. AMIN KHAN KUNDI) MEMBER</p>

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR.

Restoration Application No 15/19

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 57

Dated 11-1-2019

APPEAL NO. 07/2018

V/S

Deptt:

APPLICATION FOR RESTORATION OF APPEAL NO.
07/2018 WHICH WAS DISMISSED ON DEFAULT VIDE
ORDER DATED 31.12.2018.

RESPECTFULLY SHEWETH:


1. That the instant appeal No. 07/2018 was filed before this Honorable Tribunal.
2. That the instant appeal was in Argument stage at principle Bench Peshawar, on date 31.12.2018 the counsel for the appellant waiting for the bench. The counsel wait till 10 O' Clock but the bench-II was not started and then move to Bench-1 for Cases and the case was called for one time and dismissed on default on today 31.12.2018 between 10:15 am to 10:25.
3. That it is in the interest of justice that the appeal should be dealt on merit rather to dismiss on default.

It is therefore, most humbly prayed, that the instant appeal No. 07/2018 may be restore on the acceptance of this application.

APPELLANT

Through:

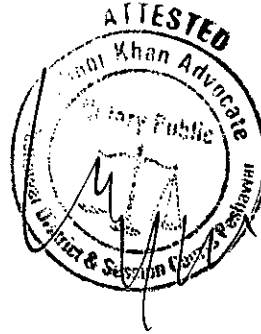

Miss **UZMA SYED**

 &
Syed Noman Ali Bukhari
ADVOCATE, HIGH COURT
PESHAWAR.

AFFIDAVIT

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

U.S.
DEPONENT



①



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 7 /2018.

Saeed Ullah, EX- Constable, No. 1655
Distt: Swat.

1467
28/12/2017

.....(Appellant)

VERSUS

1. The Regional Police Officer, Malakand, Saidu Sharif, Swat.
2. The District Police officer Swat.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER 29.11.2017 WHEREBY, THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ORDER DATED 05.12.2008 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

REAMIN

31.12.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney present. Case called but neither the appellant nor his counsel turned up. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

Member

Member

Center for signature copy

KPK Service Tribunal
Peshawar

ANNOUNCED.
31.12.2018

Date of Presentation of Application 07-01-18
 Number of Words 400
 Copying Fee 4
 Urgent Y
 Total 4
 Name of Applicant [Signature]
 Date of Completion of Copy 11-1-18
 Date of Delivery of Copy 11-1-18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Restoration Application in Appeal No. 07/2018

Saeed Ullah Ex-Constable, No.1655, District Swat.

..... Appellant

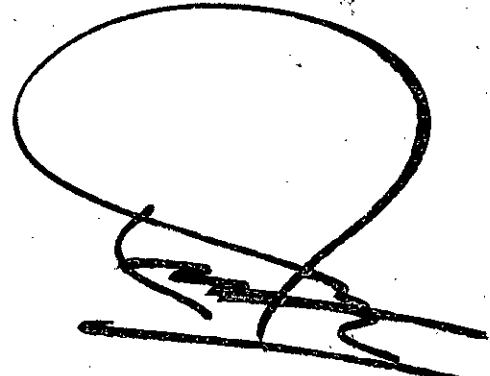
VERSUS

1. The Deputy Inspector General of Police, Malakand Region at Saidu Sharif, Swat.
2. The District Police Officer Saidu Sharif Swat.

..... Respondents

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**District Police Officer, Swat
(Respondent No.02)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Restoration Application in Appeal No. 07/2018

Saeed Ullah Ex-Constable, No.1655, District Swat.

..... Appellant

VERSUS

1. The Deputy Inspector General of Police, Malakand Region at Saidu Sharif, Swat.
2. The District Police Officer Saidu Sharif Swat.

..... Respondents

PARAWISE COMMENTS BY RESPONDENTS

Respectfully Shewith,

Brief facts of the Applicant's case:

Applicant Saeed Ullah Ex-Constable No.1655 while posted at Police Lines absented from duty without prior permission or approved leave of competent authority vide Daily Diary Report No.06 dated 05/08/2008. DSP Legal Swat was appointed as Enquiry Officer to conduct departmental enquiry against the applicant. He was charges sheeted and issued Show Cause Notice to explain his position. The Enquiry Officer in his finding report submitted that the delinquent Constable was time and again called but he did not appeared before the Enquiry Officer to record his statement, hence recommended him for major punishment. After observing all codal formalities he was dismissed from service vide OB No. 226 dated 05/12/2008.

FACTS:

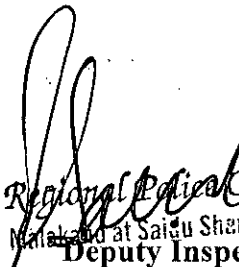
1. Correct to the extent that appellant had filed time barred appeal No.06 in January 2018 and respondents have responded with parawise reply on 08 different dates.
2. Incorrect. Appellant and respondent's representative have attended the honorable Tribunal on each and every date but on 31/12/2018, appellant and his council without any reasonable cause wilfully absented from hearing in order to waste the precious time of honorable Tribunal and cause agony to the respondents through unsound/time barred appeal. The honorable Tribunal has

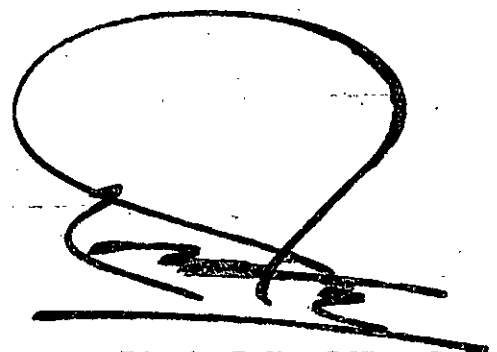
already taken lenient view by dismissing the appeal in default without imposing costs.

- 3. Incorrect. Appeal of the appellant is badly time barred as he has wilfully absented from duty for long period without any permission/leave.

PRAYER:

Keeping in views the above facts and circumstances, it is humbly prayed that the restoration application of applicant being devoid of legal force, may kindly be filed/dismissed with costs.


 Regional Police Officer,
 Malakand at Saidu Sharif, Swat
**Deputy Inspector General of
 Police, Malakand Region
 (Respondent No. 1)**


**District Police Officer Swat
 (Respondent No. 2)**

Restoration Application in Appeal No. 07/2018

Saeed Ullah Ex-Constable, No.1655, District Swat.

..... Appellant

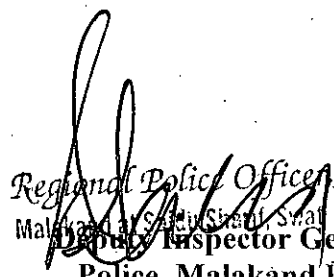
VERSUS

1. The Deputy Inspector General of Police, Malakand Region at Saidu Sharif, Swat.
2. The District Police Officer Saidu Sharif Swat.

..... Respondents

AFFIDAVIT

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the restoration application are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.


Regional Police Officer,
Malakand Region, Saidu Sharif, Swat
Deputy Inspector General of
Police, Malakand Region
(Respondent No. 1)


District Police Officer, Swat
(Respondents No.2)

Restoration Application in Appeal No. 07/2018

Saeed Ullah Ex-Constable, No.1655, District Swat.

..... Appellant

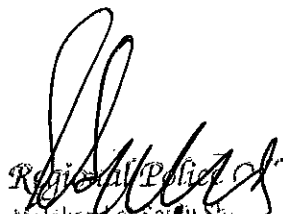
VERSUS

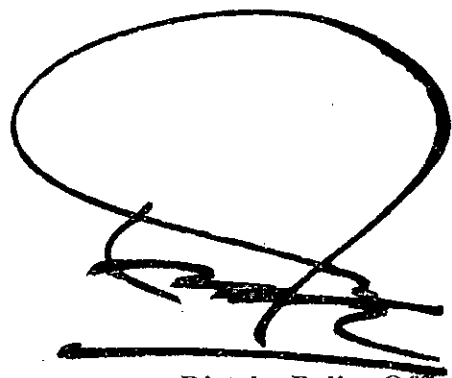
1. The Deputy Inspector General of Police, Malakand Region at Saidu Sharif, Swat.
2. The District Police Officer Saidu Sharif Swat:-

..... Respondents

AUTHORITY LETTER

We, the above respondents do hereby authorize Mr. Mir Faraz Khan DSP/Legal & Mr. Khawas Khan SI Legal to appear before the Tribunal on our behalf and submit reply etc in connection with titled Restoration Application.


Regional Police Officer,
Malakand at Saidu Sharif, Swat.
**Deputy Inspector General of
Police, Malakand Region
(Respondent No. 1)**


**District Police Officer Swat
(Respondent No. 2)**