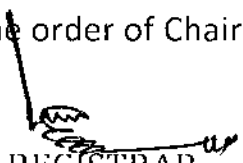


Form-A  
FORM OF ORDER SHEET

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

Restoration Application No. **87/2023**


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	20.02.2023	<p>The application for restoration of appeal no. No.04/2021 resubmitted today by Mr. Muhammad Irshad Mohmand Advocate. It is fixed for hearing before Single Bench at Peshawar on</p> <p>Original file be requisitioned. Parcha Peshi is given to applicant/Counsel.</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: center;"> REGISTRAR</p>

The application for restoration of appeal no.04/2021 submitted by Ejaz son of Khan Pur Khan to-day i.e. on 16.02.2023 is incomplete on the following scores which is returned to petitioner for completion and resubmission within 15 days.

- 1- Application is not in proper shape.
- 2- Spare copies/sets of the application along with annexures i.e. complete in all respect be provided for respondents.

No. 610 /S.T.

Dt. 17/2 /2023.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Ejaz son of Khan Pur Khan  
Khasadar Regiment No. 5570  
District Bajaur.

*Resubmitted  
After compliance,  
missy/fpl  
20/2/2023*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

R/A NO 87 /2023  
IN R/A NO 40 OF 2023  
IN SERVICE APPEAL NO: 04/2021

Ejaz s/o Khan Pur Ex khasadar Regiment No 5570 District  
Bajaur

(Applicant / Appellant)

Versus

Government of KPK Secretary Home & Tribal Affair  
Department Peshawar & others

(Respondents)

**APPLICATION FOR STAYING THE CASE IN THIS  
PRINCIPLE SEAT / PESHAWAR**

Respectfully Sheweth,

1. That the above mentioned case is pending before this Hon'ble Court.
2. That the applicant belong to Tribal District Bajaur and now working on Orakzai Agency.
3. That the applicant as easy in this principle seat.

*It is therefore most humbly prayed that the acceptance of this application the case may be fixed for principle seat Peshawar*

Through

Applicant  
*Moshir*  
Muhammad Irshad Momand  
Advocate

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL PESHAWAR**

R/ A No 87 /2023

In R/ A No 40 of 2023

In Service Appeal No:04/ 2021

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 3621

16/2/2023

Ejaz s/o Khan Pur Khan Ex Khasadar Regiment No 5570

District Bajaur (Applicant / Appellant)

**VERSUS**

Government of KPK through Secretary Home & Tribal Affair

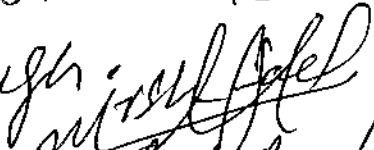
Department Peshawar & others (Respondents)

**INDEX**

S.No	Description of Documents	Annex	Pages
1.	Application for restoration		1-3
2.	Affidavit		4
5	Restoration Application & Order Dated 06-02-2023		5-7

  
Applicant / Appellant: Ejaz  
In Person

0303-8132295

Through   
Muhammad Ishtiaq  
Abdullah  
Advocate

0300-5917744

①

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

Restoration Application No <sup>87/</sup>2023

In RIA 40 of 2023 In Service Appeal No:04/ 2021

Ejaz S/o Khan Pur Khan Ex Khasadar Regiment No 5570  
District Bajaur

(Applicant/ Appellant)  
VERSUS

1. Government of KPK through Secretary Home & Tribal Affair  
Department Khyber Pakhtunkhwa Peshawar.
2. Provincial Police officer, Khyber Pakhtunkhwa.
3. District Police Officer, Commandant Ex Levies & Khasadar Force  
Bajaur.

**APPLICATION FOR RESTORATION OF ABOVE**  
**MENTIONED RESTORATION APPLICATION No 40**  
**OF 2023 WHICH WAS DISMISSED IN DEFAULT VIDE**  
**ORDER DATED 06-02-2023 BY THIS HONORABLE**  
**TRIBUNAL AND THE SAME BE DECIDED ON MERIT**

**RESPECTFULLY SHEWETH**

The applicant submits as under:

1. That the above mentioned application for restoration was fled  
by the applicant and the clerk of counsel of the applicant was  
informed that after the fixation of application, the counsel of the  
applicant will be informed.
2. That clerk of the the counsel, of the applicant has time approached to  
this Honorable Tribunal and inquire from the concerned official about  
the fixation of the date but no date was given to the clerk of the counsel  
of the applicant, therefore the non presence of the applicant is not  
intention but due to above mentioned reason. and nor the applicant was  
informed about the fixation of the case and the applicant belongs to tribal  
district of Bajaur.

3. **That** the counsel for the applicant was informed by the concerned official about the fixation of the case on the date fixed i-e 06-02-2023 which was fixed at camp court swat.
4. **That** as the counsel of the applicant was informed about the fixation of the date, the applicant was informed by the earlier counsel and therefore the applicant duly approach to the tribunal at camp court swat on the next date.
5. **That** the applicant request for restoration of application No 10 of 2023 which was dismissed vide order dated 06-02-2023 on the following grounds.

### **GROUND**

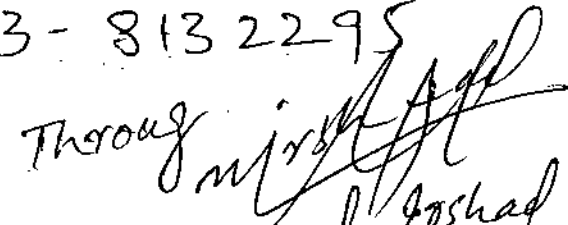
- A. **That** in the above titled appeal valuable a rights of applicant is involved and nor the applicant and nor the counsel for the applicant was informed by the concerned official about the date fixed, therefore the dismissal of application for non-prosecution of the is illegal, unwarranted, unjustified.
- B. **That** as such the clerk of the counsel for the applicant has time and again approached for fixation of the date but was not informed furthermore the applicant also belongs to tribal district of Bajaur
- C. **That** nor the counsel for the applicant was informed by the concerned officials nor conveyed the 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.
- E. **That** the dismissal of the application 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.

- F. 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.
- G. 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.
- H. That the application of the applicant is also well within time.
- 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 06/02/2023 of dismissal of restoration application for non compliance & non-prosecution passed by this Tribunal may kindly be set aside and the application of the appellant filed for restoration may graciously be restored and be decided on merits.

  
**Applicant / Appellant: Ejaz**  
In Person

0303 - 813 2295  
Throug   
Muhammad Jashad  
Mohammad  
Advocate,  
0300-5917749

(4)

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

R/ A No /2023

In R/ A No 40 of 2023

In Service Appeal No:04/ 2021

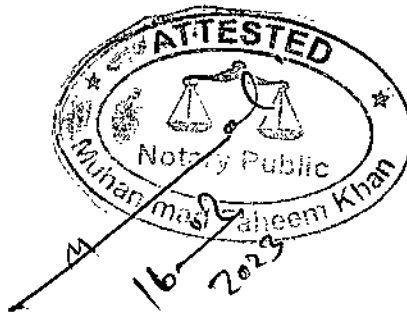
Ejaz s/o Khan Pur Khan Ex Khasadar Regiment No 5570  
District Bajaur (Applicant / Appellant)

**VERSUS**

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

**AFFIDAVIT**

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.



*[Handwritten Signature]*

DEPONENT

0303-8132295

Through Afzal  
or  
Muhammad Saif-ur-Rahman  
Mohammad  
Advocate,

0300-5917744



5

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.

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

6

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	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 <u>6-2-23</u> . Original file be requisitioned. Parcha Peshi is given to appellant/counsel.

SCANNED  
KPT  
Peshawar

By the order of Chairman

REGISTRAR

6<sup>th</sup> Feb, 2023

1. Nobody is present on behalf of the applicant.
2. On the inception of the instant application for restoration of appeal No. 4/2021, Parcha Peshi was given to the learned counsel for the appellant but today nobody put appearance on behalf of the applicant till last hours of the court. In view of the above, the instant application is dismissed in default. Consign.
3. *Pronounced in open court in Swat and given under my hand and seal of the Tribunal on this 6<sup>th</sup> day of February, 2023.*

Date of Presentation of Application 14-2-23  
 Number of ~~Words~~ <sup>Page</sup> 2  
 Copying Fee 10/-  
 Urgent 5/-  
 Total 15/-  
 Name of C \_\_\_\_\_  
 Date of Completion 14-2-23  
 Date of Delivery of Copy 14-2-23

(Kalim Arshad Khan)  
Chairman  
Camp Court Swat

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

BEFORE THE KPK SERVICE TRIBUNAL

PESHAWAR

7

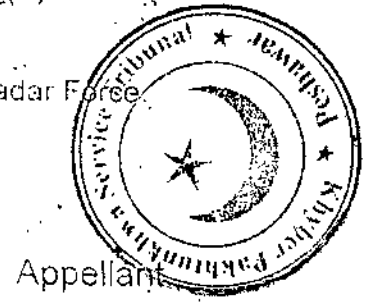
Appeal No. \_\_\_\_\_ (P)CS/202



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

Address for the purpose of service

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



Appellant

VRESUS

Khyber Pakhtunkhwa Service Tribunal

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

Diary No. 26

Dated 02/01/2022

2. Provincial Police officer, Khyber Pakhtunkhawan.

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

Respondents

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1973.

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 these 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

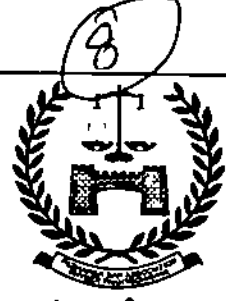
Handwritten notes and signatures in the left margin.

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal

قیمت  
50 روپے

ایڈریس: 18/18  
بار کونسل ایسوسی ایشن نمبر: be-12-3483  
رابطہ نمبر: 0300-5917744



پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سر محمد رفیق کھٹک

 اعجاز بنام کونسل پشاور	مخائب: مسائل
	دعویٰ:
	علت نمبر:
	مورثہ:
	جرم:
تھانہ:	

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ  
 آن مقام محمد رفیق کھٹک کیلئے محمد رفیق کھٹک کے ذریعے محمد رفیق کھٹک کو وکیل مقرر  
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو  
 راضی نامہ کرنے سے 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 یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
 دائرہ کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل باہر جزی  
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے نقرہ کا اختیار ہوگا اور صاحب  
 مقرر شدہ کو کوئی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساتھ پر داخست منظور و قبول ہوگا  
 دوران مقدمہ میں جو خرچہ ہر جانہ التوا کے مقدمہ کے واسطے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کر کے اپنے ذمہ لے لیں یا کسی اور کو دیا تاکہ سند سے

المقوم: Muhammad Rafiq Khatkhaty  
 Advocate,  
 0300-5917744

نوٹ: اس وکالت نامہ کی کوئی کاپی ناقابل قبول ہوگی۔

اعجاز