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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

C.M NO. -----/2023

IN

Khyber Pakhtunkhwa
Service Tribunal

Case No. 4822

Dated 11/4/2023

DECIDED SERVICE APPEAL NO. 55/2022

Muhammad Ilyas Principal GHS (BPS-18) Dabgari Gate Peshawar.
..... **Appellant**

VERSUS

- 1) The Chief Secretary Govt of Khyber Pakhtukhwa Peshawar.
- 2) Secretary to Govt of Khyber Pukhtunkhwa Elementary & Secondary Education Department, Peshawar.
- 3) Director Elementary & Secondary Education, Khyber Pukhtunkhwa Peshawar.
- 4) Muhammad Shakeel Iqbal under transfer as Principal GHS Dabgari Gate Peshawar..
- 5) Ameer Muhammad Subject Specialist under transfer Principal [BPS-18] to GHS Gulshan Rehman Colony Peshawar **...Respondents**

Application for Restoration of Service
Appeal No. 55/2021 which was dismissed
for non-prosecution on 05-04-2023

Respectfully Sheweth;

- 1- That the subject appeal bearing no S.A 55/2021 brought by the petitioner/appellant, remained pending before this Hon'ble Tribunal till 05-04-2023.
- 2- That prior to 05-04-2023 the said appeal was fixed for 30-03-2023 and the petitioner along with his council were present and had sought adjournment which was granted and the case was orally adjourned for 06-04-2023. But in fact the date fixed was recorded in the order sheet as 05-04-2023.
- 3- That on 05-04-2023 the appeal in question was dismissed for non-prosecution.


- 4- That the petitioner along with counsel when appeared before this Hon'ble Tribunal on 06-04-2023, they came to know about the dismissal of appeal in default and applied for certified copy of the order. (Extract of order sheet dated 05-04-2023 is annexed herewith).
- 5- That the absence of his petitioner and his counsel was never intentional rather the same was based on mis-understanding and wrong date of hearing issued by the office.
- 6- That the petitioner has been regularly attending this Hon'ble Tribunal in the pursuit of the appeal.
- 7- That valuable rights of the petitioner are attached with the controversy and if the impugned order is not set aside, the petitioner would sustain irreparable loss.
- 8- That it is well settled principle of law that an appeal once admitted for regular hearing, this Hon'ble Tribunal should have decided on merits.
- 9- That in the eyes of law, equity and natural justice to the impugned Judgment and order needs to be set aside.
- 10- That the instant petition is well within time and needs to be entertained.
- 11- That according to the principles of natural justice and Judgments of the Superior Courts, cases/appeals should not be decided upon technicalities rather they should be decided on merits.

It Is Therefore Most Humbly Prayed that On Acceptance of the Instant Petition, the decided appeal may be restored and be decided on merits after hearing the petitioner and respondents.

Petitioner



Through



HAMAD HUSSAIN
Advocate High Court
Peshawar
And
IRFANULLAH
Advocate

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...**Respondents**

AFFIDAVIT

It is certified that I, Muhammad Ilyas Principal GHS (BPS-18) Dabgari Gate Peshawar do hereby solemnly affirm and declare on oath that contents of the accompanying restoration application in the subject service appeal are correct, true and nothing has been concealed from this Honourable Tribunal.

Deponent

Mohd Ilyas

ATTESTED
MUHAMMAD NAEEM KHAN
ADVOCATE
OATH COMMISSIONER

11/3/22

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 55/2022

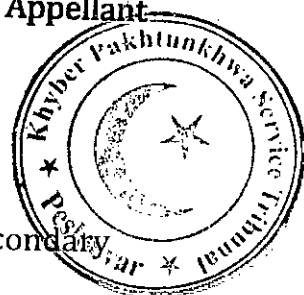
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Dated: 14/01/2022

Muhammad Ilyas Principal GHS (BPS-18) Dabgar Gate Peshawar.

..... Appellant

VERSUS




- 1) The Chief Secretary Govt of Khyber Pakhtukhwa Peshawar.
 - 2) Secretary to Govt of Khyber Pukhtunkhwa Elementary & Secondary Education Department, Peshawar.
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- ...Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED / TRANSFER ORDER BEARING NOTIFICATION NO. SO(SM)ES&ED/1/2021/PT/PRINCIPAS DATED 28/12/2021 ISSUED BY SECRETARY ELEMENTARY AND SECONDARY EDUCATION GOVT OF KHYBER PAKHTUNKHWA PESHAWAR

PRAYERS:-

MOST HUMBLY PRAYED THAT ON ACCEPTANCE THE INSTANT SERVICE APPEAL, THE IMPUGNED TRANSFER BEARING NOTIFICATION NO. SO(SM)ES&ED/1/2021/PT/PRINCIPAS DATED 28/12/2021 ISSUED BY SECRETARY ELEMENTARY AND SECONDARY EDUCATION GOVT OF KHYBER PAKHTUNKHWA PESHAWAR MAY VERY KINDLY BE DECLARED ILLEGAL, UNLAWFUL AND THE APPELLANT BE RETAINED IN GHS DABGARI GATE PESHAWAR, ANY OTHER RELIEF IF DEEMED APPROPRIATE BY THIS HONORABLE TRIBUNAL MAY ALOS BE

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Appeal No. 55/2022 5
M. Ilyas vs Govt



05.04.2023


Nemo for appellant.

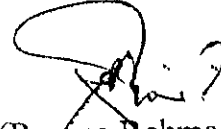
Asad Ali Khan, Assistant Advocate General for official respondents No. 1 to 3 and counsel for private respondent No. 5 present.

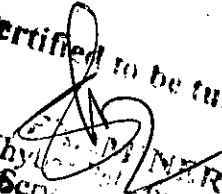
The appeal in hand was called on for hearing after various intervals, however, neither the appellant nor anyone else appeared on his behalf till the closing time, therefore, the appeal in hand stands dismissed in default. No order as to costs. File be consigned to the record room.

ANNOUNCED

05.04.2023


(Muhammad Akbar Khan)
Member (E)


(Rozina Rehman)
Member (J)

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 10-4-23
Number of Pages Page 2
Copying Fee 10/-
Urgent 5/-
Total 15/-
Name of _____
Date of Completion 10-4-23
Date of Delivery of Copy 10-4-23

