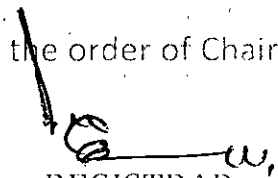


FORM OF ORDER SHEET

Court of _____

Restoration Application No. _____

218/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	03.04.2023	<p>The application for restoration of Appeal no. 4838/2021 submitted today by Mr. Rizwan Ullah Khan Advocate. It is fixed for hearing before touring Division Bench at D.I.Khan on _____ . Original file be requisitioned. Notices be issued to applicant and his counsel.</p> <p>By the order of Chairman</p>  REGISTRAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT,
D.I. KHAN

Restoration Appli. no. 218/2023

Misc Application No _____ of 2023

In Re:

Service Appeal No 4838/2021

Khyber Pakhtunkhwa
Service Tribunal

Entry No. 4679

Date 3/4/2023

Hafiz Abdul Basit S/O Muhammad Ilyas R/O Mohallah Aslam Faqir

City D.I. Khan.....(Petitioner/Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Education, Education Department Khyber Pakhtunkhwa, Peshawar
2. Director, Elementary and Secondary, Education Department Khyber Pakhtunkhwa, Peshawar
3. District Education Officer (Male), D.I Khan..... (Respondents)

APPLICATION FOR RESTORATION OF
THE ABOVE TITLED SERVICE APPEAL

Respectfully Sheweth:-

The Petitioner humbly submits as under:-


- 1) That the above titled service appeal pending adjudication before this learned Tribunal. (Copy of the service is attached herewith).
- 2) That on 20-03-2023, the appeal was fixed before Camp Court D.I Khan, the Appellant was in Islamabad due to medical treatment of his brother in Al-Shifa International

Q

Accepted By

Hospital Islamabad, hence due to the above mentioned reason neither the Appellant/Applicant present before this Honourable Tribunal on the date fixed nor he deposit the postal charge of notices, while the Counsel for Appellant/Applicant was also pleased to dismiss the above titled service appeal for non-prosecution vide order dated 20th March, 2023. (Copies of the medical prescription and impugned order dated 20-03-2022 are attached herewith).

- 3) That the presumed absence of Petitioner as well as his Counsel was not willful, but due to above mentioned reasons.
- 4) That the Petitioner after getting knowledge of order dated 20-03-2023, the instant application is being submitted immediately before this Honourable Tribunal for the restoration of appeal.
- 5) That the Applicant has got strong prima facie case and is very sanguine of its success.
- 6) That if the instant appeal is not restored, than the Applicant/Plaintiff would suffer irreparable loss.
- 7) That there is no legal bar on acceptance of the instant application.
- 8) That this Honourable Tribunal has got sizeable powers to entertain and accept the instant application.

Approved By


9) That any other ground will be raised at the time of arguments with the prior permission of this Honourable Court.

It is therefore, most humbly prayed that on acceptance of this Application, the above noted service appeal may kindly restored to its original number and decided on merits in larger interest of justice.


Applicant/Appellant

Through:

(RIZWAN ULLAH KHAN)
Advocate
High Court, Peshawar

Dated:-03-04-2023

AFFIDAVIT:-



I, Hafiz Abdul Basit, do hereby solemnly affirm and declare on oath that all the contents of accompanied Application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.




DEPONENT

BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR, CAMP COURT D.I.KHAN



Service Appeal No. 4838 of 2021

Hafiz Abdul Basit son of Muhammad Ilyas R/o Mohallah Aslam
Faqir, District Dera Ismail Khan (Qari Teacher BPS-12)

----- (Petitioner)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Education, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), D.I.Khan.

----- (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 IN
ORDER TO GRANT PROMOTION TO THE PETITIONER TO
THE POST OF SENIOR QARI TEACHER BPS 15 AS
ADMISSIBLE UNDER THE RULES WITH ALL BACK
BENEFITS W.E 09-12-2020 / ANY OTHER REMEDY
DEEMED APPROPRIATE IN THE GIVEN CIRCUMSTANCES
MAY ALSO BE GRANTED.

PRAYER IN APPEAL

By acceptance of instant appeal Respondents may kindly be directed
to grant promotion to the petitioner to the post of Senior Qari Teacher
BPS-15 as admissible under the rules with all back benefits w.e 09-

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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12-2020 / any other remedy deemed appropriate in the given circumstances may also be granted.

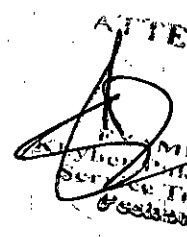
Note: Addresses given above shall suffice the object of service.

Respectfully Sheweth:

Brief facts

1. Petitioner was appointed as regular Qari Teacher on 16-08-2017 under the decessate son quota in BPS-12. Copy of appointment order is enclosed as **Annexure A**.
2. That the other candidates who were appointed through NTS was regularized vide notification No.5667-5790 dated 10-03-2018. Copy of the appointment order and notification are jointly enclosed as **Annexure B**.
3. That the D.E.O D.I.Khan issued the seniority list of Qari Teachers in which petitioner is placed at serial No.21. Copy of the seniority list is enclosed as **Annexure C**.
4. That upon the recommendation of Department Promotion Committee D.E.O Male D.I.Khan promoted 15 Qari Teachers to the post of Senior Qari Teachers vide notification No.26733-39 dated 09-12-2020. Copy of the promotion order is enclosed as **Annexure D**.
5. That the SST seniority list of Khyber Pakhtunkhwa corrected upto march 2018 in which promoted candidates are placed senior to the candidates selected through NTS. Copy of the corrected seniority list is enclose as **Annexure E**.
6. That the respondent No.2 issued notification for the appointment to posts of SST in Nowshehra District. Copy of the notification is enclosed as **Annexure F**.
7. That the appellant submitted departmental representation to the respondent on 12-01-2021 but respondent paid no attention to the



ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

appeal of appellant. Copy of the departmental representation is enclosed as **Annexure G**.

8. That as per legal requirements, the Petitioner has been left with no other option but to agitate his grievances before this Honorable Tribunal inter alia on the following grounds:

Grounds:

1. Petitioner was recruited into service as Qari Teacher on regular basis in PBS-12 on 16-08-2017 while the NTS Qari Teacher were regularized on 10-03-2018 through KPK Act No.1/2018. According to the para No.8 and 9 of the Act and notification dated 10-03-2018 all the NTS teachers are junior to the petitioner. Hence petitioner is entitled for promotion to BPS-15 as Senior Qari Teacher under the rules.
2. That other NTS teacher who were regularized on 10-03-2018, have been promoted to BPS-15 vide impugned Notification dated 09-12-2020 but the petitioner who is most senior than all the promoted NTS teachers has been deprived of his lawful right of promotion. Thus the Act of DEO Male D.I.Khan is totally against the merit, seniority list, KPK Act 2018 and promotion rules.
3. That according to the para 8 of the KPK Act 2018 all the NTS teachers shall ranked junior to all other employees belonging to the same cadre who are in service on regular basis on the commencement of this Act and shall also rank junior to such other person if any who in pursuance of recommendation of the Khyber Pakhtunkhwa Public Service Commission made before the commencement of this Act are to be appointed to the cadre in respecting of their actual date of appointment. Thus according to the para 8 of the KPK Act 2018 all the NTS teachers are junior to the petitioner and the petitioner being senior is entitled for the promotion to the post of Senior Qari Teacher (BPS-15). Hence act of the respondent amounts to discrimination, illegal, misuse of authority and without jurisdiction.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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4. That the promoted Qari teacher from serial No.3 to 15 in the impugned notification dated 09-12-2020/promotion list were all the NTS teachers but petitioner was dropped from the promotion list and deprived from the promotion of Senior Qari Teacher without any legal justification. Hence the petitioner is entitled for the promotion to Senior Qari Teacher (BPS-15).
5. That despite receiving applications department neither allowed nor refuse the said applications and petitioner has not been promoted to Senior Qari Teacher (BPS-15).

In view of the above mentioned facts and grounds I request you to please to grant promotion to the petitioner to the post Senior Qari Teacher BPS 15 as admissible under the rules with all back benefits w.e.f 09-12-2020 and include the name of petitioner at serial No.3 in the impugned notification dated 09-12-2020/ any other remedy deemed appropriate in the given circumstances may also be granted.

Your Humble Petitioner

Hafiz 12101-2347754-9

Hafiz Abdul Basit
S/o Muhammad Ilyas
R/o Mohallah Aslam Faqir
Qari Teacher (BPS-12)
District D.I.Khan

0313-9366692

[Signature]
Petitioner Counsel

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

13th Feb, 2023

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents present.

On 30.09.2022 respondents No. 4 to 28 ^{was} arrayed as private respondents but they have not been served as yet, therefore, it deems appropriate to issue notices to private respondents No. 4 to 28. The expenses of which be deposited by the appellant within three days. To come up on 20.03.2023 before D.B at camp court D.I.Khan. P.P given to the parties.

SCANNED
KPST
Peshawar

(Muhammad Akbar Khan)
Member(E)

(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan



20th Mar, 2023

1. Nobody is present on behalf of the appellant. Mr. Muhammad Jan, District Attorney for respondents present.

2. On the previous date, the appellant was directed to deposit expenses for issuance of notices to private respondents No. 4 to 28 but neither he deposited the same nor anyone put appearance on behalf of the appellant. In view of the above, the instant appeal is dismissed in default as well as non-compliance of the court order. Consign.

3. *Pronounced in open court in D.I.Khan and given under our hands and seal of the Tribunal on this 20th day of March, 2023.*

(Salah Ud Din)
Member(Judicial)

(Kalim Arshad Khan)
Chairman
Camp Court D.I. Khan


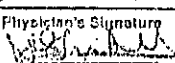
Date of Presentation of Application 23-04-23
Number of ~~Pages~~ 5
Copying Fee 5/-
Urgent 20/-
Total 25/-
Name of Copyist 03-04-23
Date of Completion of Copy 03-04-23
Date of Delivery of Copy 03-04-23

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Shifa Foundation Falahee Clinic

Khayabane-e-Jauhar, Sector H-8/4, Islamabad.
Tel: 051-8463380, Fax: 4435046

M.R. No. 00-94-CF Date 20-03-2023
Patient's Name Muhammad Tayyab Age 30 years

		<u>Express</u>
<u>Psychiatric Days</u>		
Allopathy Detachable Self controlled disorder.	}	Tab: Olanzapine / 20/10
		Tab: Risperidone / 3/10
		Tab: Lamotrigine 1+1
		Tab: Risperidone / 2/1
<u>Plan for ERD</u>		
DR. MUHAMMAD SHAHRUKH NAZEM		
Physician's Name ID # 28306	Physician's Signature 	Substitution Permissible <input type="checkbox"/> Substitution Not Permissible <input checked="" type="checkbox"/>

RIZWAN ULLAH KHAN
Advocate High Court
BC-12-3500
Date of Issue: 09-04-2010



Secretary
KP Bar Council

کورٹ
فیس

Comrad Basit 359@gmail.com

Before our Honorable KPK Service Tribunal
petitioner

Hajir Abdul Basit vs Govt of KPK
Restoration application

دعوی یا جرم

تفصیل دعوی یا جرم

باعث تحریر آنکہ

Dikhan

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطہ بیرونی وجوہات کی بنا پر اس کی تجدید مقدمہ بنام

RIZWAN ULLAH KHAN Advocate High Court

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا ہذا بیرونی وجوہات حاضر ہونے والوں کا اور ہر وقت پکارت جانے مقدمہ دیکھیں صاحب
موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر رضائی کی وجہ سے کسی طور میرے خلاف درمیا تو صاحب
موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف مقدمہ مقام پکھری کے علاوہ پکھری کے اوقات سے پہلے یا پیچھے یا بروز تقاضا
بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ مندرجہ پکھری کے علاوہ اور جگہ سماعت ہونے یا بروز تقاضا یا پکھری کے اوقات کے آگے یا پیچھے پیش ہونے
پر مظہر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا محنت نہ واپس کرنے سے بھی صاحب موصوف ذمہ دار نہ ہوں گے نہ
کو کھل ساختہ پر داخہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعوی یا جواب دعوی یا درخواست اجراء اسے ڈگری
نظر ثانی آجیل عمرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر غاش یا راضی نامہ و فیصلہ برطرف کرنے اقبال دعوی کا بھی اختیار ہو گا اور بصورت مقرر ہونے
تاریخ پیشی مقدمہ مقرر ہیران از پکھری مندرجہ مقرر نظر ثانی آجیل و عمرانی و ہر قسم مقدمہ یا مندرجہ ڈگری ایک طرف یا درخواست حکم اتھالی یا قرآنی
یا گرفتاری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادا ایسی علیحدہ مختصیروان کا اختیار ہو گا اور تمام ساختہ پر داخہ صاحب موصوف مثل کردہ
از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو گا کہ مقدمہ مقررہ یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی
آجیل عمرانی یا دیگر معاملہ و مقدمہ مذکورہ کسی دوسرے وکیل یا ہیر مقرر کو اپنے جہانے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں دانی اور ویسے
اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو جگہ ہر جگہ اختیار ہو گا وہ صاحب موصوف کا حق ہو گا جو کہ
صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ۱۰۰۰۰ روپے تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پوری نہ کریں اور ایسی صورت
میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے

2023 3 2

مضمون وکالت نامہ سن لیا ہے اور ایسی طرح کیوں لیا ہے اور منظور ہے

Accepted by

petitioner
Hajir Abdul Basit