

07.01.2020

Learned counsel for the applicant present. Mr. Muhammad Jan learned Deputy District Attorney present.

Arguments heard. File perused.

Learned DDA resisted the instant application for restoration of Service Appeal No.1269/2015 on the ground of limitation.

Learned counsel for the applicant argued that the service appeal filed by the applicant was dismissed in default vide order dated 18.02.2019; that on the aforementioned date, i.e. on 18.02.2019 the appellant was awaiting for the call of his case outside the court room but due to lack of knowledge regarding court proceeding, he misconceived the situation and was under the impression that his case has been adjourned; that on 29.04.2019 the applicant came to know that his service appeal has been dismissed in default and on the next day, the appellant has filed the instant application; that the applicant has also filed application for condonation of delay.

While considering the stand taken by the learned counsel for the applicant and keeping in view the dictates of justice and circumstances of the case, the application for condonation of delay is accepted and the instant application for restoration of service appeal bearing No.1269/2015, is allowed. Service appeal is restored. To come up for arguments on the main service appeal on 13.02.2020 before D.B.


Member


Member

06.09.2019


Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Mr. Atta Ur Rehman Inspector for the respondents present. Learned counsel for the appellant submitted application for condonation of delay. Learned District Attorney seeks adjournment to furnish reply. Adjourned. To come up for reply and arguments on 01.11.2019 before D.B.


(Ahmed Hassan)
Member


(M Hamid Mughal)
Member

01.11.2019


Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Atta ur Rehman Inspector present. Representative of the respondents requested for time to furnish reply. Granted. To come up for reply and arguments on 27.11.2019 before D.B.


Member


Member

27.11.2019

Petitioner in person present. Asst: AG for respondents present. Petitioner seeks adjournment as his counsel is not available today. To come up for further proceedings on 07.01.2020 before D.B.



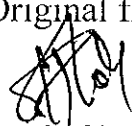


Member


Member

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 200/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	30.04.2019	<p>The application for restoration of appeal No. 1269/2015 submitted by Mr. Nasir-ud-Din 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 30/4/19</p>
2	10-5-19	<p>This restoration application is entrusted to D. Bench-I to be put up there on <u>16-07-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
16.07.2019		<p>Learned counsel for the appellant present. Notice be issued to the respondents for 06.09.2019 before D.B. Original file also be requisition to the date fixed.</p> <p style="text-align: center;">  (Hussain Shah) Member </p> <p style="text-align: right;">  (M. Amin Khan Kundi) Member </p>

Before The Khyber Pakhtunkhawa, Service Tribunal, Peshawar,

Appeal Number 1269/2015

Abdullah S/O Jejanzeb Khan
Peshawar KPK (Police Deptt).

Versus

Inspector General Police

**APPLICATION FOR CONDONATION OF DELAY FOR FILING APPLICATION
FOR RESTORATION OF APPEAL IN RESPECT OF ABOVE NOTED CASE:-**

Respectfully Sheweth:-

1. That the titled Service Appeal No.1269/2015 was pending before this Honourable Tribunal on 18/02/2019, on which date the petitioner was present and waiting for call of the case outside the Court room but the same was dismissed in default.
2. That the appellant came to know that his appeal is dismissed in default due to the reasons that his file was not tracing as such he came to know after search that his appeal is dismissed in default.
3. That the moment the appellant came to know, he then and there moved and application for restoration of the appeal on 30/04/2019.
4. That when the application for restoration was moved, this honorable tribunal directed the appellant to file an application for condonation of application for restoration of appeal.
5. That the application for restoration of appeal is though well in time as the appellant came to know on 29/04/2019 and he filed application on 30/04/2019 but even then the application in hand is being filed for condonation of delay with the following prayer:-
6. That even the superior courts have held in number of cases that cases should be decided on merits and technicalities should always be avoided in the best interest of justice.
7. That absence of the applicant was neither intentional nor deliberate but to the lack knowledge regarding courts proceedings and instead of appearing before the Honourable Tribunal he misconceived the situation and went home under the impression that the case has been adjourned.
8. That this Honourable Tribunal has ample power to look into the matter of the appellant favourably which is required for the just disposal of the main appeal.

✓

9. That the appellant has otherwise got a very good case on merit, if this Honourable Tribunal on humanitarians ground to restore the appeal.

It is therefore, most humbly prayed, that the instant appeal No. 1269/15 may kindly be restored on the acceptance of this application.

Abdullah S/o Jehanzeb Khan

Appellant.



Through

NASIR UDDIN



Advocate Peshawar

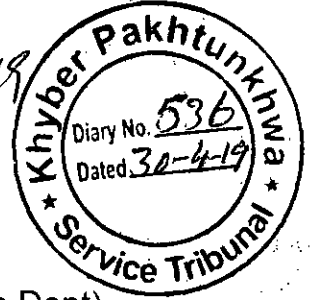
Dated 06/09/2019

08/06/2019

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR.

Restoration Application no. 200/2019

APPEAL NUMBER:- 1269/2015



Abdullah v/s Inspector General Police Peshawar KPK (Police Dept).

**APPLICATION FOR RESTORATION OF APPEAL NO. 1269/2015 WHICH
WAS DISMISSED ON DEFAULT VIDE ORDER DATED 08/02/2019:-**

Respectfully Sheweth:-

- 1). That the instant appeal No. 126/2015 was filed before this Honorable Tribunal against the order.
- 2). That the instant appeal was in argument stage at Principal Bench Peshawar, on dated 08/02/2019, the Counsel for the appellent waiting for the bench. The counsel waited till 10:00 O, clock but the bench II was not started and then move to Bench-I/High Court for cases and the case was called for one time and dismissed on default on dated 08/02/2019 between 10.15 AM to 10.45 AM.
- 3). That it is in the interest of the justice that appeal should be dealt on merit rather to dismiss on default,

It is therefore, most humbly prayed, that the instant appeal No. 1269/15 may kindly be restored on the acceptance of this application.

THROUGH

APPELLANT

ABDULLAH


NASIR UD DIN
ADVOCATE PESHAWAR.

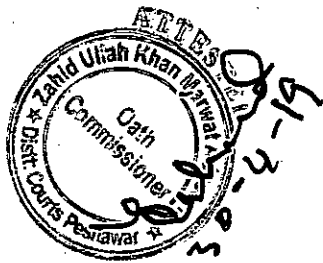
Nasir-ud-Din Yousafzai
Advocate BC-18-1590
Peshawar
+92 300 5958088

AFFIDAVIT:-

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



DEPONENT.



Before The K.P.K Service Tribunal Peshawar



1254
16-10-15

Service Appeal No 1269 /2015

Abdullah F.C No.1007 S/o o Jehanzeb Khan resident of
Toru, Tehsil & District MardanAppellant

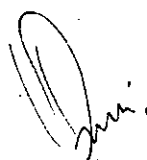
VERSUS

1. Inspector General of Police, KPK. Peshawar
2. The Deputy Inspector General of Police Distt: Mardan
3. The District Police Officer Mardan
4. Superintendent of Police Mardan
5. Superintendent of Police Distt: Mardan.....Respondents

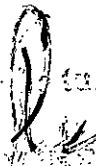
18.02.2019 Nemo for the appellant. Learned Additional Advocate General for the respondents present.

It is already 4:00 PM and the case has been called more than once. Despite, no one is in attendance on behalf of appellant. Dismissed for want of prosecution. File be consigned to the record room.


Member


Chairman

ANNOUNCED.
18.02.2019

Certified true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR.

Restoration Appli. No. 200/2019

APPEAL NUMBER:- 1269/2015

Abdullah v/s Inspector General Police Peshawar KPK (Police Dept).

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- 3). That it is in the interest of the justice that appeal should be dealt on merit rather to dismiss on default,

It is therefore, most humbly prayed, that the instant appeal No. 1269/15 may kindly be restored on the acceptance of this application.

THROUGH

APPELLANT

ABDULLAH

Nasir Ud Din
NASIR UD DIN
ADVOCATE PESHAWAR.

Nasir-ud-Din Yousafzai
Advocate BC-18-1590
Peshawar
+92 300 5958088

AFFIDAVIT:-

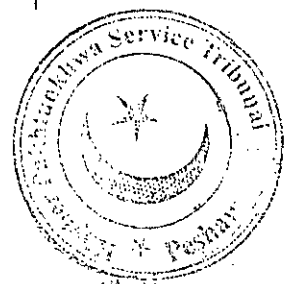
It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.


DEPONENT.



Handwritten notes:
38-4-19
BT-5-DE

Before The K.P.K Service Tribunal Peshawar



1254
16-10-15

Service Appeal No 1269 /2015

Abdullah F.C No.1007 S/o o Jchanzeb Khan resident of
Toru, Tehsil & District MardanAppellant

VERSUS

1. Inspector General of Police, KPK, Peshawar
2. The Deputy Inspector General of Police Distt: Mardan
3. The District Police Officer Mardan
4. Superintendent of Police Mardan
5. Superintendent of Police Distt: Mardan.....Respondents

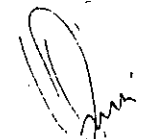
18.02.2019 Nemo for the appellant. Learned Additional Advocate
General for the respondents present.

It is already 4:00 PM and the case has been called more
than once. Despite, no one is in attendance on behalf of
appellant. Dismissed for want of prosecution. File be
consigned to the record room.

Certified true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


Member


Chairman

ANNOUNCED.
18.02.2019

بغذالت صبا - سرور سید بیرون صبر محسنی

مورخہ: 20ء منجانب: اسپڈنٹ محمد اللہ
 مقدمہ بعنوان: محمد اللہ صالحہ کسٹیلر بنام: اسپڈنٹ سید سید علیہ السلام
 مقدمہ نمبر: 1269/2015 رجوعہ: 16-10-2015
 نوعیت مقدمہ: اپیل
 مقدمہ علت نمبر: _____ مورخہ: _____
 جرم: _____ تھانہ: _____



باعث تحریر آنکھ



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

آن مقام سید سید علیہ السلام کیلئے سپڈنٹ سید علیہ السلام کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل مقررہ کو راضی نامہ کرنے و تقرر ی ثالث و فیصلہ بر حلف دینے عرضی دعویٰ، جواب دعویٰ، اقبال دعویٰ، جواب الجواب، عذر داری، درخواست زبردفعہ (2) 12 ض د، درخواست برآمد برآمدگی و سرسبزی مقدمہ، درخواست برآمد منسوخی کاروائی و ڈگری یکطرفہ دائر کرنے جواب، جواب الجواب وغیرہ درخواست کاروائی اجراء دائر کرنے و وصولی چیک و رقم اور درخواست از ہر قسم کی تصدیق زراس پر دستخط وغیرہ کرنے کا اختیار ہوگا۔ اپیل، اپیل دراپیل، نگرانی، نظر ثانی، برٹ و عذر داری وغیرہ دائر کرنے کا بھی اختیار ہوگا۔ اور بصورت ضرورت مذکورہ کے عمل یا جزوی کاروائی کے واسطے وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برداشتہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی پر وکیل موصوف مقام دورہ پر ہونا یا حد سے باہر ہونا یا بیمار ہونا کوئی ضروری کام ہو۔ تو وکیل صاحب پابند نہ ہونگے کہ پیروی مقدمہ مذکورہ کریں لہذا وکالت نامہ لکھ دیا تاکہ سند نہ رہے۔

المرقوم: 04-03-2018

مقام: _____ کے لئے منظور ہے۔

نوٹ: اس وکالت نامہ کو نوکالی تا قابل قبول ہوگی۔

Advocate I.D:

Bar Council: BC-18-1590

Bar Association: _____

Contact #: 0300-5958068

Attested & Accepted
 04/03/2018
 Nasir-ud-Din Yousafzai
 Advocate BC-18-1590
 Peshawar
 +92 300 5958088