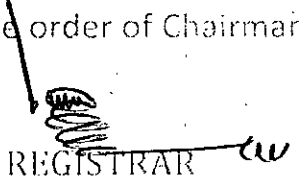


FORM OF ORDER SHEET

Court of _____

Restoration Application No. _____

236/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.04.2023	<p>The application for restoration of Appeal no. 55/2022 submitted today by Hamad Hussain Advocate. It is fixed for hearing before Division Bench at Peshawar on _____ Original file be requisitioned.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Restoration Application # 236/2023

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

IN

Khyber Pakhtunkhwa
Service Tribunal

Case No. 4822

Dated 11/4/2023

SCANNED
KPST
Peshawar

11/4/23

DECIDED SERVICE APPEAL NO. 55/2022

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

VERSUS

- 1) The Chief Secretary Govt of Khyber Pakhtunkhwa 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

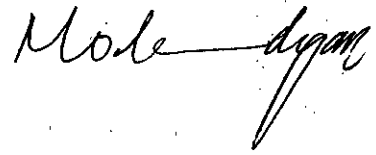
Respectfully Sheweth;

- 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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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

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

IN

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**

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

11/4/2023

4

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 55/2022

Khyber Pakhtunkhwa
Service Tribunal

43

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.
 - 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



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 I
M. Ilyas vs Govt



05.04.2023


Nemo for appellant.

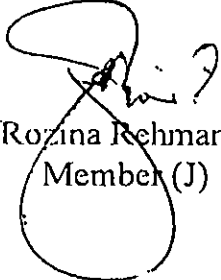
Asad Ali Khan, Assistant Advocate General for official respondents No. 1 to 3 and counsel for private respondent No. 5 present.


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 Words Page 2
Copying Fee 10/-
Urgent 5/-
Total 15/-
Name of C...
Date of Completion 10-4-23
Date of Delivery of Copy 10-4-23

وکالت نامہ

بعدالت صواب سروس سروس
محمد رسا سب نام گورنمنٹ
منجانب سائل تاریخ
صلت نمبر: مورخہ: جرم: تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام کے لیے ہے۔

حماد حسین ابید عرفان اللہ ایڈوکیٹ پشاور

کو بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو بروئے عدالت حاضر ہوتا رہوں گا اور ہونگی اور بوقت پکارے جانے مقدمہ وکیل صاحبت موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر من مظهر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو موصوف اس کے کسی طرح ذمہ دار نہ ہوں گا۔ نیز وکیل صاحب موصوف صدر مقام پجہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پجہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پجہری کے اوقات کے آگے پیچھے پیش ہونے پر من مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ داریاں اس کو واسطے کسی معاوضہ کے ادا کرنے یا مختیار نامہ واپس کرنے کے بھی صاحب موصوف کو ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخنت صاحب موصوف مشل کردہ ذات خود منظور قبول ہوگا صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و مگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کار و پیہ وصول کرنا اور سید دینا اور داخل کرنا اور ہر قسم کے بیان دینا اور سپرد غلائی و راضی نامہ کو فیصلہ برخلاف کرنا اقبال دعویٰ دینا کا بھی اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم انتہائی یا قرائی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادا ایگی علیحدہ مختیار نامہ پیروی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں نیز ایسے مشیر قانون کو ہر آمر میں وہی اور ایسے ہی اختیارات حاصل ہوں گے جیسے کہ صاحب موصوف کو حاصل ہے اور پہلے ادا نہ کرے تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کرے اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا لہذا یہ مختیار نامہ لکھ دیا تاکہ سند رہے مورخہ: مضمون مختیار نامہ من لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

محمد رسا

حماد حسین ابید
0312-0902763

عرفان اللہ ایڈوکیٹ پشاور
رابطہ نمبر: 0300-5858361