


FORM OF ORDER SHEET

Court of _____

Restoration Application No. 362/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.06.2023	<p>The application for restoration of appeal No. 5785/2020 submitted today by Mr. Saif Ullah Muhib Kakakhel Advocate. It is fixed for hearing before Division Bench at Peshawar on <u>09-06-23</u>. Original file be requisitioned.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**I IN THE COURT OF LEARNED SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA**

In Re:
Service Appeal No. 5785/2020

R. A. 362/2023

Hidayat Ullah

.....Applicant / Appellant

Versus

Health Department

.....Respondents

INDEX

S#	Description of the Documents	Annex	Pages
1.	<i>Application alongwith affidavit</i>	*	1-3
2.	<i>Copies of the appeal & order dated 10.04.2023</i>	"A & B"	4-5
3.	<i>Copy of the Cause List of the Honourable Tribunal Dated: 20.02.2023</i>	"C"	6

Dated:- 26/05/2023

Hidayat
Applicant/Appellant

Through:-

Saifullah
Saifullah Muhib Kakakhel
LL.M, Advocate High Court
Cell # 0334-4440744

(J)

**IN THE COURT OF LEARNED SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA**

In Re:
Service Appeal No. _____/2020

Hidayat Ullah Khan S/o Mir Faraz Khan R/o House No. 233/B, Mohallah
Rab Nawaz Wakeel, Bannu City.
.....Applicant / Appellant

Versus

1. Director General Health, Directorate of Health Services, Khyber Pakhtunkhuwa, Civil Secretariat, Peshawar.
 2. Secretary Health, Khyber Pakhtunkhuwa, Civil Secretariat, Peshawar.
 3. Government of Khyber Pakhtunkhuwa through Chief Secretary, Civil Secretariat, Peshawar.
-Respondents

**APPLICATION FOR AND ON BEHALF OF APPLICANT/
APPELLANT FOR RESTORATION OF THE APPEAL
DISMISSED IN DEFAULT VIDE ORDER DATED 10.04.2023
BY THIS LEARNED TRIBUNAL.**

Respectfully Sheweth:

1. That the above titled case was fixed before this Hon'ble tribunal and was dismissed in default vide order dated 10.04.2023. (Copies of the appeal & order dated 10.04.2023 are attached as **Annexure A & B**).
2. That the appeal dismissed in default has been Fixed for the reply of respondents and the same was pending since long and was still not submitted on the previous date of hearing when the case was dismissed in default.

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3. That the hearing before dismissal of the appeal in default we have been given/provided with the date as 19-05-2023 for next appearance and proceedings by the reader of this learned tribunal and the same was written in the cause list while we were informed that no reply has been submitted by the respondent up till now. (Copy of the Cause List of the Honourable Tribunal Dated: 20.02.2023 is attached as Annexure "C")
4. That on 19-05-2023 when the counsel had appeared to bring into the notice of the learned tribunal that the reply of the respondents are pending since long he was astonished to know that the appeal has already been dismissed in default on 10.04.2023 about which he had no knowledge as we have been provided with the date 19.05.2023 for next hearing.
5. That the application is within time and the same has been filed upon getting the knowledge of it as inadvertently the dates has been mentioned wrongly by the reader of this worthy tribunal.
6. That absence of the applicants / appellants and their counsel were neither intentional nor deliberate, but due to the reason mentioned herein above.
7. That there is no legal impediment in restoring the case of the applicant / appellant.

- 8. That the August Supreme Court and High Courts have times and again laid the dicta that cases should be decided on their merit instead of a Lis-Pendis being decided on mere technicalities to knockout a party.
- 9. That any other ground will be taken at the time of hearing with permission of this Hon'ble Tribunal.

It is therefore respectfully submitted, that on acceptance of this application, the appeal and the interim relief granted therein may kindly be restored in the best interest of justice.

Any other order deemed appropriate in the circumstances of the case may also be passed. The applicants / appellants may be allowed to put forward any other argument/document at the time of hearing of this application.

Hidayat.
Applicant / Appellant

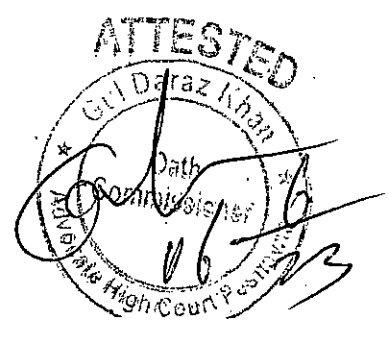
Through:

leel
Saifullah Muhib Kakakhel
LL.M, Advocate High Court
Cell # 0334-4440744

Dated: ___/06/2023

AFFIDAVIT:

I, Hidayat Ullah Khan S/o Mir Faraz Khan R/o House No. 233/B, Mohallah Rab Nawaz Wakeel, Bannu City, do hereby solemnly affirm and declare that the contents of **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



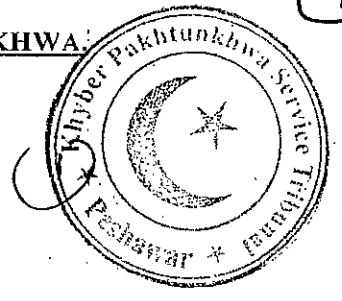
Hidayat.
DEPONENT

"A"

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BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA

Service Appeal No. 5785 of 2020



Hidayat Ullah Khan S/o Mir Faraz Khan
R/o House No. 233/B, Mohallah Rab Nawaz Wakeel, Bannu City.

.....Appellant

V E R S U S

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5062

Dated 16/6/2020

1. Director General Health, Directorate of Health Services,
Khyber Pakhtunkhwa , Civil secretariat, Peshawar.
2. Secretary Health, Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
3. Government of Khyber Pakhtunkhwa through Chief Secretary,
Civil Secretariat, Peshawar.

..... Respondents

SERVICE APPEAL UNDER SECTION 04 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974

Filed to-day
Registrar
16/6/2020

AGAINST THE ILLEGAL ACT OF RESPONDENT NO.
01 FOR NOT PROMOTING THE APPELLANT TO THE
POST OF CLINICAL TECHNOLOGIST (PATHOLOGY)
BPS-17 FROM HIS CURRENT POST AGAINST WHICH
HE SUBMITTED DEPARTMENTAL APPEAL ON
28.01.2020 THROUGH PROPER CHANNEL WHICH
WAS FILED AND NOT ANSWERED.

Respectfully Sheweth:

1. That appellant was appointed as Junior Clinical Technician
(Pathology) (BPS-09) by respondent No. 01 vide

ATTESTED


[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

10th April, 2023

1. Nobody is present on behalf of the appellant. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

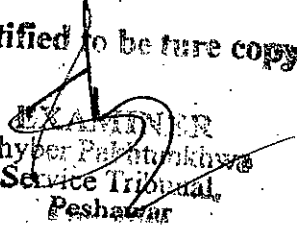
2. Called several times till last hours of the court but nobody turned up on behalf of the appellant. In view of the above, the instant appeal is dismissed in default. Consign.

3. Pronounced in open court at Peshawar, and given under our hand and seal of the Tribunal on this 10th day of April, 2023.


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 22/5/23
Number of Words Page 8
Copying Fee 40/-
Urgent 48/-
Total 88/-
Name of -
Date of -
Date of Delivery of Copy 22/5/23

LIST OF SB - I CASES FIXED BEFORE MUHAMMAD AKBAR KHAN, MEMBER (EXECUTIVE)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

20/02/2023 (MONDAY)

PRELIMINARY HEARING

S.NO.	APPEAL NO.	APPELLANT NAME	DEPARTMENT	NEXT DATE
1	103/23	WAQAR ALI	EDU	10-4-23 Pre Admission
2	325/23	KHAIR UN NISA	POLICE	10-4-23
3	327/23	MST. SHAMARANA	EDU	10-4-23 Pre Admission

APPEAL NO.	APPELLANT NAME	DEPARTMENT	NEXT DATE
5785/20	HIDAYAT ULLAH	HEALTH	19-5-23
715/21	IKRAM ULLAH (27)	EDU	✓ 19-5-23 D.B (2000)
7083/21	HAKIM ULLAH	EDU	10-4-23
741/21	ARSHAD KHAN	EDU	✓ 19-5-23 DB
717/21	DR. M. ALI	HEALTH	10-4-23
717/21	SHAHID HUSSAIN	EDU	✓ 19-5-23 DB
717/21	KARIM JAGHAR	AGR	10-4-23

9 7 "