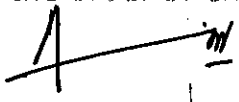


## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Restoration Application No. 396/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.06.2023	<p>The application for restoration of appeal No. 944/2018 submitted today by Mr. Adnan Aman Advocate. It is fixed for hearing before Division Bench at Peshawar on <u>27-06-23</u>. Original file be requisitioned.</p> <p style="text-align: right;">By the order of Chairman    REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR**

*Restoration appli. no. 396/2023*

C.M No. \_\_\_\_\_/2023

In

Service Appeal No.944/2018

Iftikhar ud Din through his LRs.....**Appellant/Applicant**

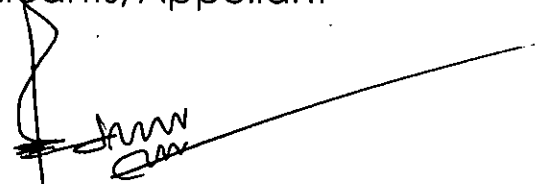
**V E R S U S**

The Govt. of KPK & others.....**Respondents**

**I N D E X**

<b>S#</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Application for Restoration		1-4
2.	Application for condonation		5-6
3.	<b>Copy of Order dated 30.01.2023</b>	"A"	7-8
4.	<b>Copy of the order sheet</b>	"B"	9-11
5.	<b>Copy of the extract from diary</b>	"C"	12

Through Applicants/Appellant



**Adnan Aman**

Advocate High Court

Dated 21.06.2023

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

*Restoration Appli. No. 396/2023*

C.M No. \_\_\_\_\_/2023  
 In  
 Service Appeal No.944/2018

**Khyber Pakhtunkhwa  
 Service Tribunal**

Diary No. 6137

Dated 22/6/2023

Iftikhar ud Din,  
 Forest Guard, LSC,  
 Forest Sub Division, Mardan.....**Appellant/Applicant**  
 through his LR's -

**V E R S U S**

1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
2. The Secretary Forest to Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
3. The Divisional Forest, Officer, Mardan Forest Division, Mardan
4. The Sub Divisional Forest officer, Patrol Squal, Peshawar
5. The Sub-Divisional Forst Officer, LSC, Forest Sub Division, Mardan
6. The Conservator Forests (Central) Southern Circle Peshawar.....**Respondents**

**APPLICATION FOR RESTORATION OF  
THE TITLED SERVICE APPEAL WHICH  
WAS DISMISSED IN DEFAULT BY THIS  
HON'BLE COURT VIDE ORDER DATED  
30<sup>TH</sup> JANUARY 2023**

---

**Respectfully Sheweth:**

1. That the titled service appeal was fixed before the worthy Division Bench of this Hon'ble Tribunal which was dismissed in default by this Hon'ble Tribunal vide order dated 30.01.2023. **(Copy of the Order dated 30.01.2023 is attached as annexure "A")**.
2. That the titled appeal was already argued before the Division Bench of this Hon'ble Tribunal comprising of the Chairman & Member (E) vide order dated 11.05.2022 and thereafter the same was fixed for announcement of order on 13.05.2022. **(Copy of the order sheet is attached as annexure "B")**.
3. That thereafter three times, the instant appeal was adjourned on account of announcement of

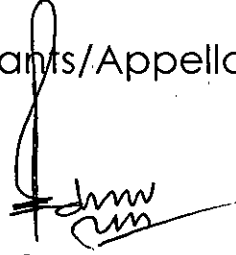
order but the order could not be announced and lastly, this Hon'ble Court vide order dated 15.07.2022 was pleased to fix the instant appeal for re-argument.

4. That on 30.01.2023, the appellants counsel was busy before the Hon'ble Peshawar High Court, so he made a request for adjournment and the case was adjourned to 08.05.2023. **(Copy of the extract from diary is attached as annexure "C")**.
5. That on 08.05.2023, the applicant duly appeared before the court but was astonished to see that the instant appeal has been dismissed in default vide order dated 30.01.2023.
6. That the appellant (Iftikhar ud Din) has already died during the pendency of instant appeal and now his legal heirs are before this Hon'ble Tribunal and as such this Hon'ble Court is requested to take a lenient view in the matter in hand.
7. That law favours adjudication on merits rather non-suiting litigants on mere technicalities.

It is, therefore prayed that by accepting this Application, the appeal may please be restored to its original number and thereafter the same be decided on its own merits.

Through

Applicants/Appellant



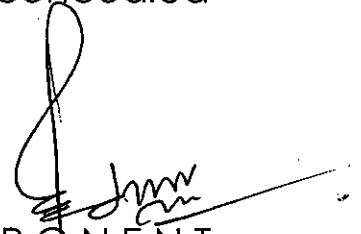
**Adnan Aman**

Advocate High Court

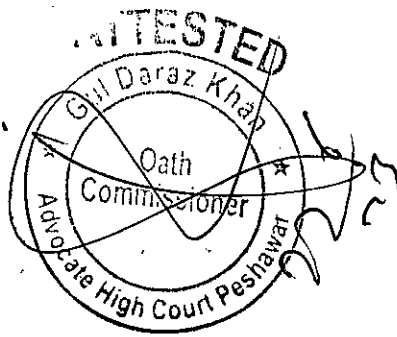
Dated 21.06.2023

**AFFIDAVIT**

I, Adnan Aman Advocate, do hereby solemnly affirm and declare on oath that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



DEPONENT





**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

C.M No. \_\_\_\_\_/2023  
In Service Appeal No.944/2018

Iftikhar ud Din.....**Appellant**

**V E R S U S**

The Govt. of KPK & others.....**Respondents**

**APPLICATION FOR CONDONATION**  
**OF DELAY IF ANY**

**Respectfully Sheweth:-**

1. That the captioned application is being filed before this Honourable Court in which no date of hearing has yet been fixed.
2. That grounds of the accompanying application for restoration may be read as an integral part of this petition.
3. That on 08.05.2023, the applicant duly appeared before the court but was astonished to see that the instant appeal has been dismissed in default vide order dated 30.01.2023.
4. That the appellant has already died during the pendency of instant appeal and now his legal heirs are before this Hon'ble Court and as such this

Hon'ble Court is requested to take a lenient view in the matter in hand.

- 5. That valuable rights of the appellant is involved, the same would be defeated, if the delay in filing of the application is not condoned.
- 6. That the delay, if any, in filing of instant application may not be condoned, the appellant would suffer an irreparable loss.

It is therefore humbly prayed that on acceptance of this application, the delay if any may kindly be condoned in the best interest of justice.

Through

Applicants/Appellant

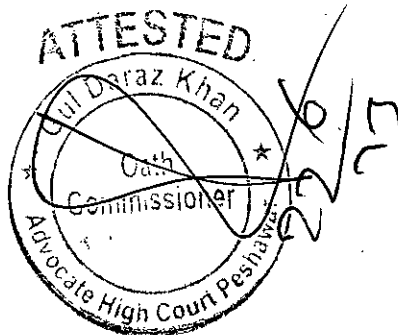
**Adnan Aman**

Advocate High Court

Dated 21.06.2023

**AFFIDAVIT**

I, Adnan Aman Advocate, do hereby solemnly affirm and declare on oath that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

  
**DEPONENT**



(7)



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No. 944 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1208

Dated 31-7-2018

① Iftikhar ud Din,  
Forest Guard, LSC,  
Forest Sub Division, Mardan.....**Appellant**


**V E R S U S**

1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar
2. The Secretary Forest to Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
3. The Divisional Forest, Officer, Mardan Forest Division, Mardan
4. The Sub Divisional Forest officer, Patrol Squal, Peshawar
5. The Sub-Divisional Forst Officer, LSC, Forest Sub Division, Mardan
6. The Conservator Forests (Central) Southern Circle Peshawar.....**Respondents**

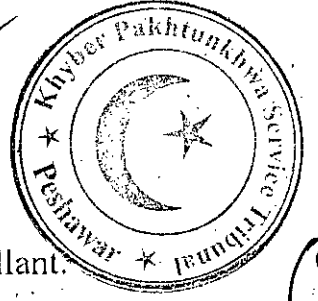
**Filed to-day**

**Registrar**  
31/7/18

**SERVICE APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICES TRIBUNAL ACT,  
1974 AGAINST THE IMPUGNED order of  
respondent No.3 dated 16.11.2017 and  
order of respondent No.6 dated nil who**

**ATTESTED**  
  
**Registrar**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Appeal No. 944/218  
Ibrahim-ud-Din



8

30<sup>th</sup> Jan, 2023

1. Nobody is present on behalf of the appellant.
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 in Peshawar and given under our hand and seal of this Tribunal on this 30<sup>th</sup> day of January, 2023.

Annexure  
"A"

(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 17-5-23  
Number of Words 27  
Copying Fee 10/-  
Urgent 5/-  
Total 15/-  
Name of C  
Date of Completion of Copy 17-5-23  
Date of Delivery of Copy 17-5-23

9

Annexure  
"B"

11<sup>th</sup> May, 2022

Mr. Yasir Saleem, Advocate for the appellant present.  
Naseer-ud-Din Shah, Asstt. AG for the respondents present.

Learned counsel for the appellant stated that the appellant has died. He submitted list of legal heirs of the deceased appellant with the request to implead them as appellants. Application is allowed. Names of legal heirs of the appellant be entered with red ink in the memorandum and grounds of the appeal as well as relevant register in the heading of appeal.

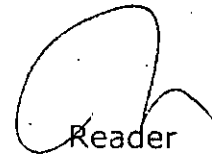
Arguments heard. To come up for order before the D.B on 13.05.2022.

  
(Fareeha Paul)  
Member(E)

  
Chairman

ORDER  
13.05.2022


Deleted. for reconstitution of Bench. To come up for order on 26.05.2022.


  
Reader

26<sup>th</sup> May, 2022

None for the appellant present. Mr. Naseer Ud Din, Assistant Advocate General for respondents present.

To come up for order on 22.06.2022 before D.B.

  
(Fareeha Paul)  
Member(E)

  
(Kalim Arshad Khan)  
Chairman

ATTESTED  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar


10

944/2018

22<sup>nd</sup> June, 2022

Junior to counsel for the appellant present. Mr. Naseerud Din Shah, Asstt. AG for the respondents present.

Because of the Departmental Selection Committee proceedings, we could not record the judgment. To come up on 21.07.2022 for order.


  
(Fareeha Paul)  
Member(E)


  
(Kalim Arshad Khan)  
Chairman

15<sup>th</sup> July, 2022

This appeal was fixed for 22.07.2022 but as the Division Bench of the Tribunal, which heard the appeal, was constituted for three days, therefore, it was deemed appropriate to fix this matter today for consideration.


In the meantime one of us (Hon'ble Chairman) remained busy in other administrative and developmental works as well as in the Departmental Selection Committee proceedings. Since some time has passed after hearing the arguments, therefore, in order to refresh our memories and on the request of learned counsel for the appellant and learned Asst: AG for the respondents to make some more submissions, the matter is adjourned for re-arguments on 15 / 9 / 2022 before D.B.

  
(Fareeha Paul)  
Member(E)

  
(Kalim Arshad Khan)  
Chairman

15.08.2022

Proper D.B is not available, therefore, case is adjourned to 13.10.2022 for the same as before.

**ATTESTED**  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

  
Reader

11

13<sup>th</sup> Oct., 2022

Junior to counsel for the appellant present. Mr. Naseerud Din Shah, Asstt. Advocate General for the respondents present.

Request for adjournment was made on behalf of learned senior counsel for the appellant due to his engagement before the Hon'ble Peshawar High Court today. Last opportunity is granted. To come up for arguments on 23.11.2022 before the D.B.



(Fareeha Paul)  
Member (E)



(Kalim Arshad Khan)  
Chairman

23<sup>rd</sup> Nov. 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. A.G for the respondents present.

On 11.05.2022, the then learned counsel for the appellant had filed list of legal heirs of the appellant who was stated to have died and the Bench had ordered entry of the names of legal heirs in the memorandum of appeal as well as relevant register but the office has not complied with this order. Explanation of the concerned official be called for. Reader is directed to ensure compliance of the court order today and thereafter put up the file today.

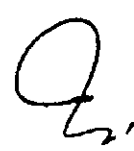
Mr. Muhammad Mahaz Madni Advocate is present on behalf of deceased appellant and stated that he would file Wakalatnama on behalf of legal heirs of the appellant and argue the case on next date. Adjourned. To come up for arguments on 30.01.2023 before the DB.



(Fareeha Paul)  
Member (E)

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



(Kalim Arshad Khan)  
Chairman

(12)

Annexure

"170" "11111111"

CGPRA Hyderabad - 1913 - Form No. 102 - 21.10.1971 - 5 Clauses 78 Day

# DIARY

No. and Date of document received	30 Dom when received	23	File	Special instructions
301/16	Farooq mek - d(1)		Edw w	
454/17	Javed		Police	19-7
460/17	Asghar		Police	19-4
60/17	Imran Ullah		Police	9/5
837/18	Kamran Ullah		Edw	22/3
828/18	Dr Mubassar Ullah		Healthy	10/5
944/18	Hafiz Khan ad Din		Formit	8-5
950/18	Haar Saad		Police	12/5
6831/21	M Jamil		Edw	
15266/20	Shakeel Ahmad		Review	
5740/21	Fauzad Yousof		Police	
7118/14	Eng. Mushtaq		Imm	
352/19	Ishfaq Ahmad		Healthy	2/2 order
7474/21	Raeis Ullah		Edw	
110/16	M. Sohail		Police	2/2
1152/18	Rahmat Ali		Police	7/4
5774/20	Aman Ullah		H. Edw	2/3
5812/21	Shamim Akter		Healthy	
7495/21	Saadat Ullah		P	5/4
1415/19	Abdul Musait		Edw	1/2 order
1382/18	Rahman Gul		Police	15-3
400/17	M. K. Khan		Police	10/5
4280/20	Sajid Ali		Police	3/1 order

Attested to be true copy