

Application No.158/2020 for Restoration of Service Appeal No.432/2017

Shahid Iqbal Vs. Government of Khyber Pakhtunkhwa through Secretary
Establishment Department, Civil Secretariat Peshawar and others.

ORDER

24th July 2023

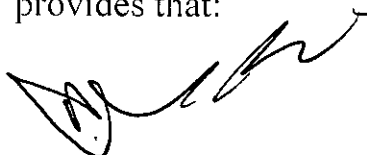
Kalim Arshad Khan, Chairman: Learned counsel for the applicant and Mr. Muhammad Jan, District Attorney for the respondents present.

2. The service appeal was fixed on 28.10.2019 for arguments. The same was called but none had appeared on behalf of the applicant and consequently, that was dismissed in default.

3. Learned counsel for the applicant stated that on the date of hearing, the appellant was not feeling well, due to which, he could not attend the court and the appeal was dismissed in default. Therefore, he requested for acceptance of the application for restoration of main appeal.

4. On the other hand, learned District Attorney submitted that appeal was dismissed in default on 28.10.2019 and the instant application was filed on 04.11.2020 which is badly time barred. Therefore, he requested for dismissal of the instant application.

5. Perusal of record reveals that the main service appeal was fixed for 28.10.2019 and the same was called but neither the applicant nor his counsel had turned up. Consequently, the same was dismissed in default. For the restoration of the said appeal, instant application was filed on 04.11.2019 after a lapse of almost one year and five days. Rule-19 (3) of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 provides that:

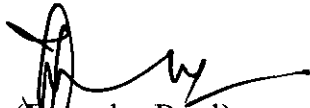


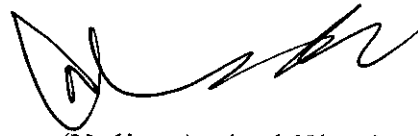
“Where an appeal is dismissed under sub-rule (1) or an ex-parte order made under sub-rule (2), the Tribunal may for sufficient cause on an application made within 15 days restore the appeal or as the case may be set aside the ex-parte order on such terms as to costs or otherwise as it thinks fit to impose.”

6. There is an application for condonation of delay filed with the restoration application. The sole ground taken by the applicant is that of his alleged ailment. The medical prescription chits annexed in support of the condonation application are from 01.01.2018 to 30.09.2019, while the appeal was dismissed on 28.10.2019 i.e. 28 days after the last medical chit. The chits much prior to the date of dismissal of the appeal and no ailment history on the date or after the dismissal could be shown, therefore, the condonation application could not be allowed.

7. In view of the situation, instant application, being badly time barred, is dismissed. Consign.

8. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 24th day of July, 2023.*


(Kareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman