


FORM OF ORDER SHEET

Court of _____

Restoration Application No. 601/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.08.2023	<p>The application for restoration of Appeal no. 325/2023 submitted today by Mr. Javed Ali Advocate. It is fixed for hearing before Division Bench at Peshawar on <u>31-08-2023</u>. Original file be requisitioned.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Restoration Application # 601/2023

Misc Application No 305 of 2023

In Re:

Service Appeal No 305 /2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7276

Dated 29/8/23

Mst: Khair-un-Nisa

VERSUS

Chief Secretary and others

I N D E X

S NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGE
1.	Misc Restoration Application	-	01 - 02
2.	Copy of the order dated 26-06-2023	-	03
3.			04-05
4.	Wakalat Nama already placed on file (in original)	-	-06

Applicant/Appellant

Through:

(JAVED ALI)

(NAJMA KAMDAR)

Advocates

High Court, Peshawar

Dated:-29-08-2023

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Restoration Application # 601/2023

Misc Application No _____ of 2023

In Re:

Service Appeal No 325 /2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7271

Dated 29/8/2023

Mst: Khair-un-Nisa W/O Arif Ullah Khan R/O P.O Toorka Kachkot
Asad Khan Tehsil and District Bannu.....(Petitioner/Appellant)

V E R S U S

1. Chief Secretary, Khyber Pakhtunkhwa
2. Inspector General of Police, Khyber Pakhtunkhwa
3. District Police Officer, Bannu

Khyber Pakhtunkhwa(Respondents)

APPLICATION FOR RESTORATION OF
THE ABOVE TITLED SERVICE APPEAL

Respectfully Sheweth:-

The Petitioner humbly submits as under:-

- 1) That the above titled service appeal pending adjudication before this learned Tribunal. (Copy of the service is attached herewith).
- 2) That on 26-06-2023, the appeal was fixed before this Honourable Court, the Appellant was unaware about the date fixed before the Honourable Court as well as the Counsel's was not present due to the death of his grandmother; hence due to the above mentioned reason the above titled service appeal for non-prosecution vide order dated 26-06-2023. (Copy of the order dated 26-06-2023 is attached herewith).
- 3) That the presumed absence of Petitioner as well as his Counsel was not willful, but due to above mentioned reasons.

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- 4) That the Petitioner after getting knowledge of order dated 26-06-2023, the instant application is being submitted immediately before this Honourable Tribunal for the restoration of appeal.
- 5) That the Applicant has got strong prima facie case and is very sanguine of its success.
- 6) That if the instant appeal is not restored, than the Applicant/Plaintiff would suffer irreparable loss.
- 7) That there is no legal bar on acceptance of the instant application.
- 8) That this Honourable Tribunal has got sizeable powers to entertain and accept the instant application.
- 9) That any other ground will be raised at the time of arguments with the prior permission of this Honourable Court.

It is therefore, most humbly prayed that on acceptance of this Application, the above noted service appeal may kindly restored to its original number and decided on merits in larger interest of justice.

Applicant/Appellant

Through:

(JAVED ALI)
M &

(NAJMA KAMDAR)

Advocates

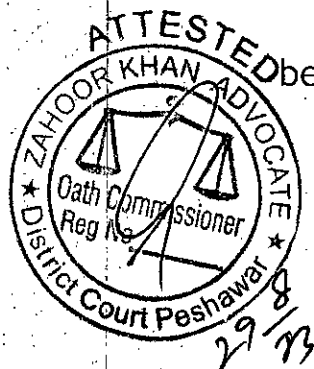
High Court, Peshawar

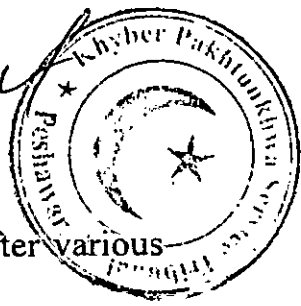
Dated:-29-08-2023

AFFIDAVIT:-

I, Najma Kamdar Advocate (as per information of my client) all the contents of accompanied Misc Application are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honourable Court.

DEPONENT





ORDER
26.06.2023

Nemo for the appellant. 3

The appeal in hand was called on for hearing after various intervals, however nobody put appearance on behalf of the appellant till rising of the court, therefore, the appeal in hand stand dismissed in default. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
26.06.2023

[Signature]
(Satah-ud-Din)
Member (Judicial)

Nasim Amin

Certified to be true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 17/7/2023
Number of Words page 2
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Total 15/-
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Date of Completion of Copy 17-7-23
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(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 325 /2023

Mst. Khair Un Nisa W/O Arif Ullah Khan R/O P.O Toorka Kachkot Asad Khan
Tehsil and District Bannu

.....Appellant

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa.
2. The Inspector General Police Khyber Pakhtunkhwa.
3. The District Police Officer, Bannu Khyber Pakhtunkhwa

.....Respondents

Appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 whereby the Departmental Appeal for the reinstatement in service of the Appellant Dated 26/09/2022 has not been responded within the statutory period of 90 days by the Respondent No.3.

Prayer in Appeal:

On the acceptance of this Appeal, the impugned order No.66-68 Dated Bannu 09/01/2008 may please be set aside and the Respondents may kindly be directed to accept the appeal of the Appellant Dated 26/09/2022 already submitted to Respondent No.3 to reinstate the Appellant in the service and for resumption of duty accordingly.

Respectfully Sheweth:

The brief facts and background of the instant Service Appeal are as under:

FACTS:

1. That the Appellant is Law abiding citizen and permanent resident of P.O Toorka Kachkot Asad Khan Tehsil and District Bannu.
(Copy of CNIC of the Appellant is annexed as Annexure "A")
2. joined the Police Service as Lady Constable having Service No.218 (BPS 5) at Tehsil and District Bannu on 20/07/2005 Vide Enlistment Order No.360 Dated 21/07/2005.
(Copy of the Enlistment Order is annexed as Annexure "B")
3. That the Appellant since 2005 served the Police Department with zeal and zest and to the satisfaction of the high ups throughout.
4. That at the time of joining the Police Service, the Appellant was unmarried however, after few years of service the Appellant got married resultantly shifted to the husband family at Bannu.
5. That the husband of the Appellant soon went abroad for earning the livelihood while the in-laws of the Appellant restricted the Appellant from continuing her Police Service any more at that time which the Appellant and his parents though resisted to great extent but being a married woman could not succeeded.
6. That the Appellant being helpless, compelled and finding no other way was constrained to submit the resignation from Police Service against her will and in order to save her marital life and curse of the in-Laws.
7. That the Respondent No.3 accordingly accepted the resignation of the Appellant vide Order No.66-68/Dated Bannu the 09/01/2008.
(Copy of Order Dated 09/01/2008 is annexed as Annexure "C")
8. That the Appellant despite of her resignation continued her efforts to convince her in-laws and her husband however, it took long when the husband of the Appellant succeeded to convince his family regarding the job of the Appellant.

Attended by
Maj ma kavelet
Adu
Majid

9. That though it was late but with hope and expectation the Appellant submitted a written Appeal to the Respondent No.3 for her reinstatement in the Police Service stating therein all the facts and unavoidable circumstances beyond the ordinary control of the Appellant.
(Copy of the Appeal Dated 26/09/2022 is annexed as Annexure "D")

(Handwritten mark)

10. That till date the Appeal of the Appellant for her reinstatement has not been responded by the Respondent No.3 despite of the fact that the Appellant has been kept under the impression that her appeal is under process for consideration but till date without any result either way hence, the Appellant is filing this Service Appeal on the following grounds inter alia.

Grounds:

- a- That the resignation from service was not voluntary act of the Appellant rather it was under Duress and against her free will and consent hence, the order dated 09/01/2008 is liable to be set aside.
- b- That the act of resigning the Police Service was not of the own volition of the Appellant but due to the unavoidable circumstances then
- c- That the Respondents are bound to consider the Appeal of the Appellant and non-entertaining the Appeal is against the principles of Natural Justice.
- d- That the Appellant has not been heard and no order to this effect has been passed which needs the interference by this August Tribunal.
- e- That after considering the available facts, circumstances and record the Respondents needs to be directed to reinstate the Appellant accordingly.
- f- That the reasons given in the Appeal of the Appellant are such which require due consideration in this behalf.
- g- That it is settled principle of Law that any act done under duress, compulsion and without free consent is void and ineffective hence, the Appellant is entitled to be reinstated in the Service.
- h- That any other ground will be raised at the time of arguments with prior permission of this August Tribunal.

It is therefore, most humbly prayed that on the acceptance of this Appeal, the impugned order No.66-68 Dated Bannu 09/01/2008 may please be set aside and the Respondents may kindly be directed to accept the appeal of the Appellant Dated 26/09/2022 already submitted to Respondent No.3 to reinstate the Appellant in the service and for resumption of duty accordingly. Any other relief not specifically prayed for which this Hon'ble Court deems just in the circumstances may also be granted accordingly.

Dated: February 13, 2023

Appellant
Through *(Signature)* Miss Najma
Javed Ali

(Signature)
Hajra Noreen




Muhammad Haroon

Naveed Khan
Advocates High Court, Peshawar

*Attested by
Adv. Naveed Khan*

(Signature)

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قیمت 50 روپے	6595	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈوکیٹ: <u>جاوید علی احمد محمد جاوید</u>	بار کونسل ایسوسی ایشن نمبر: <u>BC-18-61-2008</u>	  
رابطہ نمبر: <u>0336-9137720</u>		

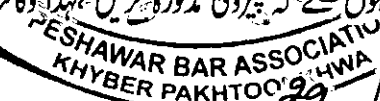
بعدالت جناب: سروس ٹریبونل

منجانب: <u>ایڈووکیٹ</u>	دعویٰ:
<u>گنہگار النساء</u>	علت نمبر:
<u>بنام</u>	مورخہ:
<u>چیف سکریٹری ضلع پختونخواہ و نمنبر</u>	جرم:
	تھانہ:

بابت تحریر آگے

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

آن مقام لحمہ کیلے جاوید علی احمد محمد جاوید کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل ہی براہ راست اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ پر داختر منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوا ہے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب ہابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے



المرقوم: 29/08/2023

Najmia

الع ہاد الع ہاد

مقام _____

محمد

محمد

نوٹ: اس وکالت نامہ کی فونو کاپی نام قابل قبول ہوگی۔

الحکومت پاکستان
Khyber Pakhtoonkhwa University
گنہگار النساء زوم عدرف اللہ منس تورم کیکوری علی صفر -