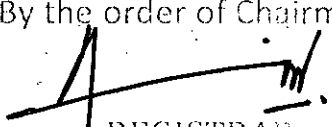


FORM OF ORDERSHEET

Court of _____

Misc. application No. 734/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06/10/2023	<p>The Misc. application in Service Appeal No. 1712/2023 submitted today by Mr. Sajeed Khan Afridi Advocate. It is fixed for hearing before Division Bench at Peshawar on _____. Original file be requisitioned. Parcha Peshi is given to the counsel for the applicant.</p> <p>By the order of Chairman  REGISTRAR</p>

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

MISC Application NO. 734/2023

APPEAL NO.1712/2023

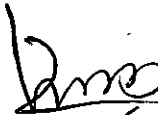
IHTISHAM ULLAH

V/S

GOVT OF KPK & OTHERS

INDEX

S. NO	<u>DOCUMENTS</u>	<u>ANNEXURE</u>	<u>PAGE</u>
1.	Memo of application with Affidavit	1-2
2.	order dated 07.09.2023	A	3-4
3.	Wakalatnama	5


Applicant/Respondent No.4

Through


Sajeed Khan Afridi

&

Tariq Afghan 

Advocates High Court
Peshawar.

- 1 -

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

Misc. Application No. 734/2023

APPEAL NO.1712/2023

Mr. Ihtisham Ullah, Senior Clerk (BPS-14),
O/O the DEO (F) Dir Upper under transfer
to GHSS Saddo Dir Upper.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8156

Dated 06-10-23

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&S) Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&S) Education Khyber Pakhtunkhwa, Peshawar.
- 3- The DEO (F), District Dir Upper.
- 4- Mr. Zahid Hussain, Senior Clerk (BPS-14) GCMHSS Dir Upper under transfer to the O/O DEO (F) Dir Upper.

.....RESPONDENTS

**APPLICATION FOR SETTING ASIDE EX-PARTEE
PROCEEDINGS.**

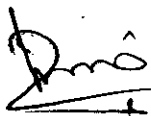
RESPECTED SHEWETH:-

- 1) That the above titled service appeal is pending adjudication before this Hon`ble tribunal which is fixed for today i.e. 06.10.2023.
- 2) That no summon was served on respondent No. 4, therefore they were not aware about the proceeding in the instant suit.
- 3) That as the respondent No. 4 have no knowledge about the instant case therefore he did not appeared in the instant case and an exparte proceedings are initiated against the respondent No. 4 on 07.09.2023. (Copy of order dated 07.09.2023 is attached as Annexure A)

- 2 -
- 4) That the non-attendants of the applicant/ respondent No. 4 was not intentional nor deliberative but due to the above mentioned fact.
 - 5) That there is no bar for setting aside ex-parte proceedings.
 - 6) That the law favour to decide the matters on merit, and the applicant be given opportunity to respondent No. 4 his rights as per law.

It is therefore, very humbly prayed that on acceptance of this application exparte proceedings against defendants No.1 and may kindly be set aside.

Dated: 06.10.2023



Applicant/Respondent No.4

Through



Sajeed Khan Afridi

&



Tariq Afghan

**Advocates High Court
Peshawar.**

AFFIDAVIT

I Mr. Zahid Hussain, Senior Clerk (BPS-14) GCMHSS Dir Upper under transfer to the O/O DEO (F) Dir Upper, **(Applicant/respondent No.4)** do solemnly hereby affirm and declare on oath that the contents of this application are correct and nothing has been concealed or misstated from this august court.



DEPONENT.



Annex-A

3

-1-

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

SERVICE APPEAL NO. 1712/2023



Mr. Ihtisham Ullah, Senior Clerk (BPS-14),
O/O the DEO (F) Dir Upper under transfer
to GHSS Saddo Dir Lower.

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&S) Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&S) Education Khyber Pakhtunkhwa, Peshawar.
- 3- The DEO (F), District Dir Upper.
- 4- Mr. Zahid Hussain, Senior Clerk (BPS-14) GCMHSS Dir Upper under transfer to the O/O DEO (F) Dir Upper.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED TRANSFER ORDERS DATED 10.04.2023 AND 19.04.2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM O/O THE DEO (F) DIR UPPER TO GHSS SADDO DIR LOWER IN UTTER VIOLATION OF TRANSFER/ POSTING POLICY AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned transfer orders dated 10.04.2023 and 19.04.2023 may very kindly be set aside and the appellant be retained at the office of DEO (F) Dir Lower. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as

under:-

1- That the appellant is a law abiding citizen of Islamic Republic of Pakistan.

2- That the appellant is an employee of the respondent department and was performing his duty as Senior Clerk with...

[Handwritten signatures and stamps, including 'Khyber Pakhtunkhwa Service Tribunal Peshawar']



07.09.2023

1. Junior to counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Behramand Khan, A.D for official respondents present. Nobody present on behalf of private respondent No. 4, hence proceeded and placed ex-parte.

2. Written reply not submitted. Representative of the respondent seeks time for submission of written reply. To come up for written reply/comments on 15.09.2023 before S.B. P.P given to parties.

R
(Rashida Bano)
Member (J)

*KaleemUllah

15.09.2023

1. Learned counsel for the appellant present. Mr. Asad Ali Khan learned Assistant Advocate General alongwith Faheem Khan, Assistant for respondents present.

2. Written reply on behalf of respondents submitted which is placed on filed. A copy of the same is handed over to learned counsel for the appellant. To come up for arguments on 06.10.2023 before D.B. P.P given to parties.

R
(Rashida Bano)
Member (J)

*KaleemUllah

Date of Presentation of Application 06-10-23
Number of Page 2
Copying Fee 10/-
Urgent 15/8/23
Total _____
Name of Copyiest _____
Date of Completion of Copy 06-10-23
Date of Delivery of Copy 06-10-23

Certified to be true copy
AS
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
6/10/23

-5-

WAKALATNAMA

(Power of Attorney)

BEFORE THE 14PK Service Tribunal PESHAWAR.

Mr. Ihtisham Ullah (Plaintiff)

VERSUS

Govt of 14PK Employees (Defendant)

We, the undersigned the (Resp# 4) in the above noted Appeal, do hereby appoint and constitute **Sajeed**

Khan Afridi Tariq Afghan &

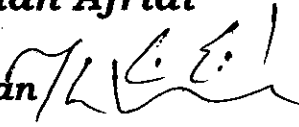
Khanzaib Ullah Khan Advocates Peshawar to

appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Accepted and Attested


CLIENT


Sajeed Khan Afridi


Tariq Afghan

&


Khanzaib Ullah Khan

* مشر زاہد حسین، سینئر فلکی (BPS-14)
دیپارٹمنٹ CMHSS

Advocates, Peshawar
Floor#7, flate#5, tasneem plaza near jans baker
Peshawar cantt.

BC #09-1532
CELL# 03339173354