


# FORM OF ORDERSHEET

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

Misc. application No. 772/2023

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge   |
|-------|---------------------------|--|
| 1     | 2                         | 3  |
| 1     | 18/10/2023                | <p>The Misc. application in Service Appeal No. 1510/2023 submitted today by Mr. Zahoor Islam Advocate. It is fixed for hearing before Single 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<br/><br/>REGISTRAR</p> |

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR.**

*Misc Application No. 772/23*

Service Appeal No. 1510/23

**Naeem Ullah**

Versus

**Chief Secretary, KPK etc**

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**Applicant/Respondent No's. 41 & 51**

*Through*

  
**ZAHOOR ISLAM**

Advocate High Court

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR.**

*Misc. Application No 772/23*

Service Appeal No. 1510/23

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 8403

Dated 18-10-23

Mr. Naeem Ullah, Office Assistant DGHS Office, Peshawar.

.....Appellant

Versus

1. The Chief Secretary to the Government of KPK, Peshawar.
2. The Secretary to the Government of KPK, Health Department, Civil Secretariat, Peshawar.
3. The Director General Health Services, DGHS KPK, Ex-FATA Secretariat, Warsak Road, Peshawar.
4. The Deputy Director (Admin) DGHS DGHS KPK, Ex-FATA Secretariat, Warsak Road.
41. Muhammad Salim, Office Assistant LRH, Peshawar.
51. Sultan Ali, Office Assistant LRH, Peshawar.

.....Respondents

**APPLICATION FOR SETTING ASIDE EX-PARTE ORDER DATED 20.09.2023**

**AGAINST APPLICANT/RESPONDENT NO's. 41 & 51**

It is respectfully submitted as under:-

1. That the above captioned service appeal is pending adjudication before this learned Court, in which next date of hearing is 27.10.2023.
2. That the applicants were informed through the clerk of the counsel that the above captioned service appeal is pending before this Honorable Court and the applicants were proceeded against ex-parte vide order dated 20.09.2023.

*(Certified Copy of Order dated 20.09.2023 is annexed herewith as Annex-'A')*


3. That the applicants couldn't appear in the above captioned service appeal on the date fixed due to inadvertently noting of wrong date of hearing, which prevents the applicants from taking part in the proceedings of the Court, thus the applicants were proceeded against ex-parte vide order dated 20.09.2023 by the court of Mr. Muhammad Akbar Khan, Learned Member, KP Service Tribunal.
4. That there was a genuine misunderstanding as stated above, which led to the non-appearance of the applicants from the proceedings.
5. That the applicants acting in vigilant manner, traces out the instant case for contesting it on merits, and thus hired the services of the advocate.

6. That the applicants were not aware of the pendency of the above mentioned service appeal or any publication therein on the date fixed as 20.09.2023, hence keeping in view the universal principle of **Audi Alteram Partem**, the impugned order dated 20.09.2023 is liable to be set aside to the extent of the applicants.
7. That the non-appearance/absence of the applicant/respondent No's. 41 & 51 in the above captioned service appeal was not intentional nor wilful, rather it is due to inadvertently wrong noting of the date of hearing.
8. That the valuable rights of the applicants are involved in the above mentioned lis and if the impugned order dated 20.09.2023 is not set aside to the extent of applicants, then the applicants shall suffer an irreparable loss.
9. That it is a well settled principle of law that matters should always be decided on merits, keeping aside the technicalities and technical knock-outs should always be avoided.

**PRAYER:**

**In view of the foregoing, it is humbly prayed that the petition in hand may kindly be accepted and the ex-parte proceedings initiated vide order dated 20.09.2023 may kindly be set aside and the applicant/respondent No's. 41 & 51 may kindly be allowed to contest the instant service appeal and the case be decided strictly on merit in the extreme interest of justice, fair play and equity.**

Dated: 18-10-2023

  
Applicant/Respondent No's. 41 & 51

Through

  
**ZAHOOR ISLAM**

Advocate High Court

3)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No. 1510/23

**Naeem Ullah**

Versus

**Chief Secretary, KPK etc**

**APPLICATION FOR SETTING ASIDE EX-PARTE ORDER DATED 20.09.2023**  
**AGAINST APPLICANT/RESPONDENT NO's. 41 & 51**

**Affidavit**

I, Muhammad Salim r/o LRH, Peshawar do hereby solemnly affirm and declare on oath:

“That the contents of the accompanied petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.”

*Salim*  
DEPONENT

*Attested*  
Muneeb ur Rehman  
OATH  
COMMISSIONER  
Advocate High Court Peshawar  
18-10-2023

(Annex A) 4

①

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

SERVICE APPEAL NO. 1510 /2023

Mr. Naeem Ullah Office Assistant,  
DGHS Office, Peshawar.




Diary No. 6298  
Date: 5/7/2023

**APPELLANT**

**VERSUS**

1. The Chief Secretary to the Government of Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to the Government of Khyber Pakhtunkhwa Health Department, Civil Secretariat, Peshawar.
3. The Director General Health Services, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
4. The Deputy Director (Admin), Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
5. Mr. Farid Iqbal Office Assistant, Women & Children Hospital, Kohat.
6. Mr. Taimor Wali Khan Office Assistant, DHO Office, Upper Dir.
7. Mr. Abdar Khan Office Assistant, DHO Office, Upper Dir.
8. Mr. Hazrat Hayat Office Assistant, DHO Office, Shangla.
9. Mr. Maroof Shah Office Assistant, DHO Office, Shangla.
10. Mr. Muhammad Khaliq Office Assistant, Naseerullah Khan Baber Memorial Hospital Peshawar.
11. Mr. Shamsheer Ali Office Assistant, DHO Office, Swat.
12. Mr. Imtiaz Hussain Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
13. Mr. Said Rahim Shah Office Assistant, DHO Office, Buner.
14. Mr. Faizullah Khan Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.

**ATTESTED**

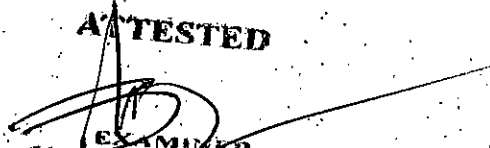
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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15. Mr. Irshad Khaliq Office Assistant, Post Graduate Medical Institute, Peshawar.
16. Mr. Ibrar Ahmad Office Assistant, Sarhad Hospital for Psychiatric Diseases Peshawar.
17. Mr. Bakhtawar Shah Office Assistant, DHO Office Charsadda.
18. Mr. Miskeen Khan Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
19. Mr. Muhammad Nabi Office Assistant, DHO Office Lower Dir.
20. Mr. Muhammad Gul Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
21. Mr. Ijaz Ahmad Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
22. Mr. Suhrab Khan Office Assistant, Pabbi Civil Hospital, Nowshera.
23. Mr. Khitab Jan Office Assistant, District Headquarter Hospital, Landi Kotal.
24. Mr. Asif Jan Office Assistant, Post Graduate Medical Institute, Peshawar.
25. Mr. Bakht Bijand Office Assistant, Swat Teaching Hospital, Swat.
26. Mr. Mukhtiar Ali Office Assistant, Sifwat Ghyur Hospital, Peshawar.
27. Mr. Muhammad Ayub Office Assistant, Swat Medical Complex, Swat.
28. Mr. Zia Ullah Khan Office Assistant, Food Lab Hayatabad, Peshawar.
29. Mr. Syed Amjad Ali Shah Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
30. Mr. Ali Haider Office Assistant, Medical Coordination Cell, Peshawar.
31. Mr. Syed Sharif Hussain Office Assistant, DHS Hospital Kurram.
32. Mr. Muhammad Haroon, Office Assistant, Benazir Bhutto Shaheed Hospital, Abbottabad.
33. Mr. Muhammad Sabir Office Assistant, Mental Hospital Dadar.
34. Mr. Asghar Khan Office Assistant, Swat Teaching Hospital, Swat.
35. Mr. Munawar Khan Office Assistant, DHQ Hospital Lakki Marwat.

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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- 3
36. Mr. Fazal Dad Office Assistant, DHO Office, Karak.
  37. Mr. Abdul Qudus Office Assistant, DHO Office, D.I. Khan.
  38. Mr. Shah Hussain Office Assistant, Paramedical Institute, Swat.
  39. Mr. Daud Jan Office Assistant, KTH Peshawar.
  40. Mr. Muhammad Rauf Office Assistant, Bannu Medical Complex Bannu.
  41. Mr. Muhammad Salim Office Assistant, LRH Peshawar.
  42. Mr. Zafar Ali Office Assistant, DHQ Hospital Charsadda.
  43. Mr. Sher Azam Khan. Office Assistant, DHQ Hospital, Upper Dir.
  44. Mr. Muhammad Alam; Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
  45. Mr. Muhammad Ayaz Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
  46. Mr. Kifayat Ur Rehman Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
  47. Mr. Sifat Ullah Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
  48. Mr. Muhammad Shafiq, Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
  49. Mr. Nowsher Khan Office Assistant, DHO Office, Mardan.
  50. Mr. Inayat Ullah Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
  51. Mr. Sultan Ali Office Assistant, LRH Peshawar.
  52. Mr. Fazle Raziq Office Assistant, LRH Peshawar.
  53. Mr. Muhammad Manzoor Office Assistant, Abbottabad Teaching Hospital, Abbottabad.
  54. Mr. Alamgir Khan Office Assistant, Mardan, Medical Complex, Mardan.
  55. Mr. Waheed Zaman Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

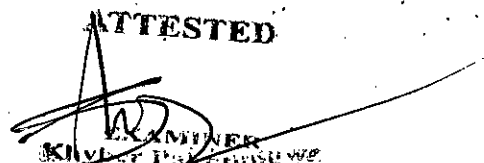


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56. Mr. Sikandar Hayat Office Assistant, Saidu Group of Teaching Hospitals, Swat.
57. Mr. Aleem Khan Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
58. Mr. Farhan Ali Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
59. Mr. Naseem Khan Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
60. Zafar Iqbal Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
61. Mr. Muhammad Nawaz Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
62. Mr. Sadqat Khan Office Assistant, DHO Office, Peshawar.
63. Mr. Sajjad Ali Office Assistant, DHO Office, Abbottabad.
64. Mr. Muhammad Quarish Office Assistant, *DHO Office Khyber Agency*.
65. Mr. Muhammad Rafiq Office Assistant, DHQ Hospital, Haripur.
66. Mr. Farid ul Haq Office Assistant, DHO Office, Karak.
67. Mr. Saeed Akhtar Office Assistant, DHO Office, Hangu.
68. Mr. Muhammad Din Office Assistant, DHO Office, Kohat.
69. Mr. Muhammad Naeem Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
70. Mr. Malik Zaheer Office Assistant, DHQH, Battagram.
71. Mr. Noor Elahi Office Assistant, *King Abdullah Teaching Hospital, Mansel*.
72. Mr. Muhammad Ibrahim Office Assistant, DHO Office, Chitral.
73. Mr. Doctor Khan Office Assistant, DHO Office, Karak.
74. Mr. Syed Sardar Ali Shah Office Assistant, Government Maternity Hospital Hashnaghry, Peshawar.
75. Mr. Ghulam Sarwar Office Assistant, DHQH, Nowshera.
76. Mr. Kamran Office Assistant, *King Abdullah Teaching Hospital, Mansel*.
77. Mr. Riaz Muhammad Office Assistant, DHO Office, Charsadda.

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Principal  
Peshawar

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78. Mr. Ali Akbar Office Assistant, Sifwat Ghyur Hospital, Peshawar.
79. Mr. Abdul Sami Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.
80. Mr. Om Parkash Office Assistant, Directorate General Health Services Khyber Pakhtunkhwa, Ex-FATA Secretariat Warsak Road, Peshawar.

**RESPONDENTS**

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**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE FINAL SENIORITY LIST OF OFFICE ASSISTANT (BPS-16) DATED 07.12.2022, WHEREIN THE APPELLANT WAS WRONGLY PLACED AT SERIAL NO.90 BELOW THAN PRIVATE RESPONDENTS NO. 05 TO 80 BY WRONGLY MENTION THE DATE OF HIS INITIAL APPOINTMENT AS 07.02.2018 INSTEAD OF 07.04.2007 "THE DATE ON WHICH THE SERVICE OF THE APPELLANT WAS REGULARIZED" AND AGAINST NOT TAKING ACTION ON DEPARTMENTAL APPEAL OF APPELLANT WITH IN THE STATUTORY PERIOD OF 90 DAYS.**

**PRAYER**

**ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY KINDLY BE DIRECTED TO PLACE THE NAME OF APPELLANT AT SERIAL NO.06 ABOVE THAN THE PRIVATE RESPONDENTS NO. 05 TO 80 IN THE IMPUGNED SENIORITY LIST DATED 07.12.2022 BY CORRECTLY MENTION THE DATE OF HIS INITIAL APPOINTMENT AS 07.04.2007 INSTEAD OF 07.02.2018 BY REVISING/ CORRECTING THE IMPUGNED SENIORITY LIST OF OFFICE ASSISTANT (BPS-16) DATED 07.12.2022. ANY OTHER REMEDY WITH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER MAY ALSO BE AWARDED THE FAVOR OF THE APPELLANT.**

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant was initially appointed as Office Assistant in Strengthening of Health Directorate FATA vide order dated 07.04.2007.

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

FORM OF ORDER SHEET

Court of

Appeal No. 1510/2023

S No. Date of order proceedings

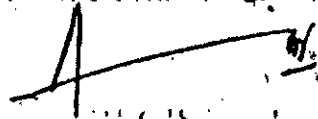
Order or other proceedings with signature of judge

1 23/07/2023

The appeal of Mr. Nadeem Khan by Mr. Taimur Ali Khan Advocate, hearing before Single Bench at Peshawar on 26-07-2023.

26.07.2023

By the order of




Learned counsel for the appellant present.

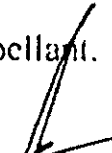
Preliminary arguments heard.

Learned counsel for the appellant at the very outset, submitted that similar nature service appeal No. 1284/2023 titled "Om Parkash Versus Secretary to Government of Khyber Pakhtunkhwa, Health Department, Peshawar and others" had already been admitted to full hearing and fixed for reply/comments on 07.09.2023. Therefore, this appeal is also admitted to full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security and process fee within ten days. To come up for reply/comments on 07.09.2023 before S.B. P.P given to learned counsel for the appellant.

RECEIVED  
Peshawar

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

  
(Muhammad Akbar Khan)  
Member (I)

07.09.2023

1. Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Laeq Ahmad, Computer Operator for official respondents present. None present on behalf of private respondents present.

2. Despite direction expenses of register AD not deposited. Learned counsel for the appellant seeks further time to deposit the same. Appellant is once again directed to deposit the expenses register A.D within 07 days by way of last chance, thereafter notices be issued to private respondents. To come up for written reply/comments on 20.09.2023 before S.B. P.P given to parties.

(Rashida Bano)  
Member



SCANNED  
KFGST  
Peshawar

\*KaleemUllah

20<sup>th</sup> Sep 2023

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents present. Private respondent No. 39 present. None present on behalf of remaining private respondents hence they are placed ex-parte.

2. Reply/comments on behalf of respondents not submitted. Learned Deputy District Attorney for official respondents as well as private respondent No. 39 seeks time to submit reply/comments. Granted. To come up for reply/comments on 27.10.2023 before S.B. P.P given to the parties.


(Muhammad Akbar Khan)  
Member (I)

Certified to be true copy


EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 13/10/23  
Number of Words Page 7  
Copying Fee 25/-  
Urgent 5/-  
Total 40/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 13/10/23  
Date of Delivery of Copy 13/10/23

11)

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|---|-------|---|--|---|
| قیمت<br>50 روپے                         | 56261 |  |  |  |
| ایڈوکیٹ: عامر سلطان خٹک                 |       |   |  |   |
| بار کونسل/ ایسوسی ایشن نمبر: BC-20-3134 |       | پشاور بار ایسوسی ایشن، خیبر پختونخواہ   |  |   |
| رابطہ نمبر: 0333-9834366                |       |   |  |   |

بعدالت جناب: سروس ٹریبونل خیبر پختونخواہ، پشاور

|   |                       |
|---|-----------------------|
| APPLICANTS / RESPONDENT<br>NO'S :   | دعویٰ: SERVICE APPEAL |
| مجاناب:   | علت نمبر:             |
| Nasirullah  | مورخہ:                |
|  | جرم:                  |
| Chief Secretary, Kpt etc  | تھانہ:                |

**باعث تحریر آگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ سرکس میں یا جج کو درج  
 آن مقام کے لیے عامر سلطان خٹک، ضلع اسلام آباد، ضلع کوئٹہ اور ضلع کوئٹہ کے قریب  
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز کوئٹہ صاحب کو  
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہرہ قسم کی تصدیق  
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
 دائرہ کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
 مقرر شدہ کو کوئی اچھل نہ کورہ یا اختیار حاصل ہوں گے اور اس کا ساتھ پر دستخط منظور و قبول ہوگا  
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے



المقام کے لیے منظور ہے

Attested & Accepted

16-10-2023

BC-20-3134

نوٹ: اس وکالت نامہ کی نوٹ کاپی ناقابل قبول ہوگی۔