


# FORM OF ORDERSHEET

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

Misc. application No. 793/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge.
1	2	3
1	23/10/2023	<p>The Misc. application in Service Appeal No. 1239/2022 submitted today by Secretary Higher Education &amp; another. It is fixed for hearing before Division Bench at Peshawar on _____ Original file be requisitioned.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

C.M NO. 793 /2023.  
IN SERVICE APPEAL NO. 1239/2022

Secretary Higher Education, Archives & Libraries, Khyber Pakhtunkhwa  
and another

.....Applicants

**VERSUS**

Hidayat Ullah Senior Clerk BPS-14, Directorate of Archives & Libraries,  
Khyber Pakhtunkhwa, Peshawar.

.....Respondent

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**Muqarrab Khan**  
**Deputy Director,**  
**Directorate of Archives & Libraries,**  
**Khyber Pakhtunkhwa**  
**CNIC# 16101-4117211-5**

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

C.M NO. 793 /2023.  
IN SERVICE APPEAL NO. 1239/2022

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 8568

Dated 23-10-2023

Secretary Higher Education, Archives & Libraries, Khyber Pakhtunkhwa  
and another

.....Applicants

**VERSUS**

Hidayat Ullah Senior Clerk BPS-14, Directorate of Archives & Libraries,  
Khyber Pakhtunkhwa, Peshawar.

.....Respondent

**APPLICATION U/S-7 OF KHYBER PAKHTUNKHWA SERVICES  
TRIBUNAL ACT,1974 R/W. RULE 27 KP SERVICE TRIBUNAL  
RULES OF 1974, FOR RECALLING ORDER DATED: 05/01/2023  
WHEREBY THE OFFICIAL APPLICANTS/RESPONDENTS WERE  
PLACED EX-PARTE AND THEIR RIGHT TO REPLY WAS STRUCK  
OFF.**

**RESPECTFULLY SHEWETH,**

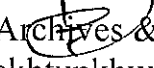
**That the Applicants humbly submit as under:**

- 1- That the Respondent /Appellant has filled besides other the subject service appeal, in which the date of hearing has been fixed on **17/11/2023**.
- 2- That when the Applicant came to know later on that this honorable tribunal has passed an order under Rule-12 of the K.P Service Tribunal, 1974 and placed the Applicants ex-parte and their right to file the reply was struck off vide order **dated: 05/01/2023** then they were constrained to defend themselves. ( **Copy of the order is Annexed-A**)
- 3- That the Applicants are aggrieved with this order and if they are not provided the right of reply and defense, great miscarriage of justice is likely to be caused to them. Moreover, it is very respectfully submitted that the right of defense has been struck off purportedly under the provision of Civil Procedure Code, 1908 which is not stricto sensu applicable on the proceedings of this honorable tribunal.

- 4- That the law stresses upon the principle that applications and appeals may be decided on merit and they may not be dismissed on technical grounds including on the ground of limitation (PLC,2003 SC 724 and 1996 SCMR 920). The principle of natural justice also requires that before passing an order, parties to the case may be given opportunity of proper hearing and defense.
- 5- That this honorable tribunal is vested with enormous powers to make such orders as may be necessary for the ends of justice and prevent the abuse of the process of the tribunal.
- 6- That the Applicants filed C.M Application No. 534/2023 in service appeal No. 1239/2022 however, due to over sight the format of application was not proper and with humble submission to this honorable tribunal the same was withdrawn to file again in proper format which was allowed vide order dated: 05/10/2023, therefore, the same is re-filed in this honorable tribunal. **(Copy of the order dated: 05/10/2023 is Annexed-B)**
- 7- That the Applicants further seek permissions to assists this honorable tribunal with further arguments if required.

**Prayer:**

In view of the above submissions, this honorable tribunal may recall the order dated: **05/01/2023** and provide the right to reply and defense in the subject service appeal for the ends of justice and fair play.

  
Director, Archives & Libraries,  
Khyber Pakhtunkhwa  
Applicant

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

C.M NO. \_\_\_\_\_/2023.  
IN SERVICE APPEAL NO. 1239/2022

Secretary Higher Education, Archives & Libraries, Khyber Pakhtunkhwa  
and another

.....Applicants

**VERSUS**

Hidayat Ullah Senior Clerk BPS-14, Directorate of Archives & Libraries,  
Khyber Pakhtunkhwa, Peshawar.

.....Respondent

**Affidavit**

I, Mr. Muqarrab Khan Deputy, Director Directorate of Archives & Libraries  
Khyber Pakhtunkhwa as per instructions of Applicants, hereby solemnly affirm  
and declare on oath that the contents of the instant application are true and  
correct and nothing has been concealed from this honorable service tribunal.

Muhammad Arshad Iqbal  
Advocate  
Oath Commissioner

22-10-23

*Muqarrab Khan*

Deponent  
Muqarrab Khan  
Deputy Director  
CNIC# 16101-4117211-5

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL  
PESHAWAR**



Service Appeal No. 1239/2021

Hidayat Ullah Senior Clerk (BPS-14) Department of Archives & Libraries KPK.

(APPELLANT)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Higher Education Department at Civil Secretariat, Peshawar.
2. Director, Archives & Libraries Khyber Pakhtunkhwa at Directorate of Archives & Libraries, Peshawar.

(RESPONDENTS)

**APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER NO. 602/3/10/DA DATED 14.04.2022 PASSED BY THE RESPONDENT NO.2 WHEREBY MINOR PENALTY OF WITHHOLDING PROMOTION FOR A PERIOD OF THREE YEARS HAS BEEN IMPOSED UPON THE APPELLANT & AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN THE STATUTORY PERIOD OF NINETY DAYS.**

**RESPECTFULLY SUBMITTED;**

1. That the appellant is law abiding & bona-fide citizen, belongs from a respectable family of Lakki Marwat and inducted onto the rolls of the respondent department, appellant has remained the most pragmatic, devoted and dutiful fellow, never left any stone unturned in performance of his duties and importing any responsibility that has been entrusted to.
2. That being highly professional and pragmatic, towards the responsibilities bestowed upon the shoulders of the appellant and because of his whetted professional skills, there have never been any sort of soot upon his long career, which in fact is reflected from appellant's service record, which sans any complaint or adverse or even advisory remarks mentioned or ever communicated to the Appellant.
3. That as per the background and checkered history, the appellant was serving his duties as Senior Clerk (BPS-14) was reverted to Junior Clerk (BPS-11) for a period of 01 year and was serving at Public Library Lakki Marwat and as the above said period of 01 year got expired on 29.07.2021, the appellant has been transferred vide the impugned Office Order No.1033/3/10/DA dated 30.07.2021, from

**ATTESTED**

  
Secretary  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

5  
A-No. 1239/22  
Hidayatullah vs Goud



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

Learned counsel for the appellant present. Syed Naseer  
Ud Din Shah, Asst: AG for respondents present.

SCANNED  
KPST  
Peshawar

There is nobody present on behalf of the respondents nor did they submit written reply/comments. The time provided in Rule-12 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 for filing reply is seven days before the date fixed but despite providing opportunity the respondents have not filed the comments. They are thus placed ex-parte and their right to file reply stands struck off. To come up for arguments on 13.04.2023 before D.B.

(Kalim Arshad Khan)  
Chairman

13<sup>th</sup> April, 2022

Clerk of counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

SCANNED  
KPST  
Peshawar

Due to strike of the Bar today, the case is adjourned to 20.06.2023 for arguments before the D.B.

Parcha Peshi given to the parties.

(Farzeha Paul)  
Member(E)

(Rozina Rehman)  
Member (J)

\*Fazal\*

Certified to be a true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 18/10/23  
Number of Words Page 2  
Copying Fee 10/-  
Urgent  
Total 10/-  
Name of Copy  
Date of Copy  
Date of Delivery of Copy 18/10/23

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

C.M NO. 534 /2023.  
IN SERVICE APPEAL NO. 1239/2022

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 6695

Dated 25/07/23

Hidayat Ullah Senior Clerk BPS-14, Directorate of Archives & Libraries,  
Khyber Pakhtunkhwa. Peshawar.

.....Appellant/Respondent

VERSUS

Secretary Higher Education, Archives & Libraries, Khyber Pakhtunkhwa  
and another

.....Applicants




APPLICATION US-7 OF KHYBER PAKHTUNKHWA SERVICES  
TRIBUNAL ACT, 1974 R/W. RULE 27 KP SERVICE TRIBUNAL  
RULES OF 1974, FOR RECALLING ORDER DATED: 05/06/2023  
WHEREBY THE OFFICIAL APPLICANTS/RESPONDENTS WERE  
PLACED EX-PARTE AND THEIR RIGHT TO REPLY WAS STRUCK  
OFF.

RESPECTFULLY SHEWETH,

That the Respondent No. 01 and 02 humbly submit as under:

- 1- That the Respondent /Appellant has filled besides other the subject service, appeal, in which the date of hearing has been fixed on 27/07/2023.
- 2- That the Applicant came to know later on that this honorable tribunal has passed an order under Rule-12 of the KP Service Tribunal, 1974 and placed the Applicants ex-parte and their right to file the reply was struck off. ( Copy of the order dated: 05/06/2023 is Annexure-A)
- 3- That the Applicants are aggrieved with this order and if they are not provided the right of reply and defense, great miscarriage of justice is likely to be caused to them. Moreover, it is very respectfully submitted that the right of defense has been struck off purportedly under the

**ATTESTED**  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



5<sup>th</sup> Oct. 2023



1. Learned counsel for the appellant present. Mr. Sohrab, Lecturer and Mr. Asad Ali Khan, Assistant Advocate General on behalf of the applicant present.
2. Learned AAG when confronted with the situation that the application is not in proper format. He says that he withdraw this application to file a fresh in accordance with law. Dismissed as withdrawn. Consign.
3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 5<sup>th</sup> day of October, 2023.

*(Signature)*  
(Muhammad Akbar Khan)  
Member (E)

*(Signature)*  
(Kalim Arshad Khan)  
Chairman

\*Kamranullah\*

**Certified to be true copy**

**SECRETARY**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 13/10/23  
 Number of Words 15P  
 Copying Fee 52  
 Urgent 5/7  
 Total 107  
 Name of Applicant \_\_\_\_\_  
 Date of Completion of Copy 13/10/23  
 Date of Delivery of Copy 13/10/23



2

**Authority Letter**

Mr. Muqarab Khan Deputy Director, Directorate of Archives & Libraries, Khyber Pakhtunkhwa, is hereby authorized to represent the Applicants in accompanying CMA in Service Appeal # 1239/2022, and file application in the instant service appeal.

Director, Archives & Libraries,  
Government of Khyber Pakhtunkhwa,  
Applicant