


## FORM OF ORDER SHEET

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

Restoration Application No. 812/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	07.11.2023	<p>The application for restoration of Appeal no. 244/2023 submitted today by Mr. Farhan Ullah Shahbanzai Advocate. It is fixed for hearing before touring Division Bench at A.Abad on _____</p> <p>Original file be requisitioned.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

**KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR**

**CHECK LIST**

Mian Sadagat

Shah Versus

A.G KPK

..... Appellant

..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Farhan Ullah Advocate High Court</u>	√	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
3.	Whether appeal is within time?	√	
4.	Whether the enactment under which the appeal is filed mentioned?	√	
5.	Whether the enactment under which the appeal is filed is correct?	√	
6.	Whether affidavit is appended?	√	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√	
8.	Whether appeal/annexures are properly paged?	√	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
10.	Whether annexures are legible?	√	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	√	
13.	Whether copy of appeal is delivered to AG/DAG?	√	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
15.	Whether numbers of referred cases given are correct?	√	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	√	
18.	Whether case relate to this court?	√	
19.	Whether requisite number of spare copies attached?	√	
20.	Whether complete spare copy is filed in separate file cover?	√	
21.	Whether addresses of parties given are complete?	√	
22.	Whether index filed?	√	
23.	Whether index is correct?	√	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- Farhan Ullah Shahbanzai

Signature:-

Dated:-

7/11/2023

**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL AT PESHAWAR.**

*Restoration Application No. 812/2023*  
C.M No...../2023

In Ref. of Appeal No.244/ 2023.

**Mian Sadaqat Shah**

.....Petitioner/Appellant

**V E R S U S**

**The Advocate General Khyber Pakhtunkhwa, & others**

.....Respondents

**I N D E X**

S/No	Description of Documents	Annexure	Page No. <sup>5</sup>
1	Memo of Petition Along with Affidavit,		1-4
2	Copy of appeal & order of this Hon,able Tribunal Dated: 25-10-2023	A	<u>5-6</u>
3.	Copy of Medical Prescription of the petitioner/appellant	B	<u>7</u>

*Shah*  
Petitioner/appellant

**Dated:07/11/2023**

**Through:-**

*Farhan Ullah Shahbanzai*  
**(Farhan Ullah Shahbanzai)**  
Advocate High Court,  
PESHAWAR

Cell No.- 0321-9171522

Office- FF-30, Bilour Plaza, Peshawar Cantt, Peshawar:

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**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL AT PESHAWAR.**

*Restoration Application No. 812/2023*  
C.M No...../2023

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 8906

Dated 7-11-2023

In Ref. of Appeal No.244/ 2023.

Mian Sadaqat Shah S/O Muhammad Saleh R/O Village Hikmat Abad, Post Office Sardhery, District Charsadda, Presently Working as Office assistant (BPS-16) at Additional Advocate General Office, Abbottabad.  
.....Petitioner/Appellant

**V E R S U S**

1. The Advocate General Khyber Pakhtunkhwa, at Advocate General office, Peshawar High Court, Peshawar.
  2. Additional Advocate General Office, Abbottabad, Through Deputy District Attorney, Peshawar.
  3. Government of Khyber Pakhtunkhwa through Secretary Law & Parliamentary Affairs and Human Right Department, Peshawar.
- .....Respondents.

Petition for restoration of above mentioned  
Service Appeal No.244 of 2023, dismissed in  
default vide Impugned Order dated: 25-10-  
2023, By this Hon'able Tribunal, and allowing  
the petitioner/appellant counsel to submit his  
arguments on various legal and factual points  
as well as on merits of the case.

**Respectfully Sheweth:-**

The petitioner/appellant respectfully submits as under:-

1. That the above mentioned Service Appeal was fixed for hearing for arguments before the Camp Court, Abbottabad, on 25-10-2023, and due to non-appearance of the appellant or his counsel the same was dismissed in default vide impugned order & judgment dated: 25-10-2023.

(Copy of impugned order dated: 25-10-2023 is annexed as A)

*at*

2

2. That actually the appeal in hand was fixed before the Principal Seat, at Peshawar for 23-10-2023, whereby counsel for the appellant has advanced his arguments as well as by the Assistant Advocate General at detail, but afterward the directions of order dated: 18-10-2023 came the insight of the Hon'able members and appellant was directed to appeared at Camp Court, Abbottabad, for tomorrow, upon which counsel for the appellant requested that in such short time it is difficult for him to travel Abbottabad, so made his submission that date for a week or two week be granted so the counsel for the appellant could manage his dairy, but request of the counsel for the appellant was not accorded and day after tomorrow was fixed for hearing at Abbottabad, which was very difficult for the counsel for the appellant to appeared therein on 25-10-2023.
3. That counsel for the appellant telephonically informed the appellant about the next date, but due to health issues he was ill and unable to attend the proceeding on the dated fixed at Abbottabad.  
**(Copy of medical prescription of the petitioner is annexed as B)**
4. That the absence of the appellant and his counsel at the time of hearing before this Hon, able Tribunal was neither willful nor intentional but due to the above reason, as getting knowledge of the dismissal order & judgment the appellant obtained attested copies and approached this Hon'able Tribunal for restoration of the same.
5. That the petitioner/appellant is having a good case in his favor, even comments of the respondents has already been received, and the case was fixed for final arguments, hence the same be fixed for final arguments.
6. That it is settled principle of dispensation of justice that cases should always be decided on merits and not on technicalities.

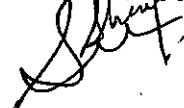
3

7. That dismissal of the appeal of the petitioner/appellant without hearing of his counsel is against the basic principle of natural justice.
8. That the valuable rights of the petitioner/appellant are involved with the fate of the above mentioned appeal and if a proper opportunity has not been provided to the counsel for the petitioner/appellant for arguments the petitioner would suffer irreparable loss.
9. That on permission of this Honorable Tribunal the appellant may urged other additional grounds if any, at the time of arguments.

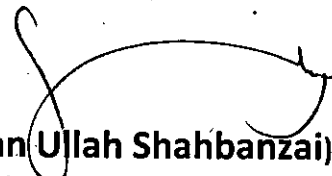
*It is, therefore, most humbly prayed that on acceptance of the instant petition, the above mentioned Service Appeal No.244 of 2023 may kindly be restored and the counsel for the petitioner/appellant may graciously be allowed to argue the case on merits of the case.*

Dated; 07 /11/2023

Petitioner/Appellant



Through:-



(Farhan Ullah Shahbanzai)  
Advocate High Court,  
PESHAWAR.

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**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL AT PESHAWAR.**

C.M No...../2023

In Ref. of Appeal No.244/ 2023.

**Mian Sadaqat Shah**

.....Petitioner/Appellant

**VERSUS**

**The Advocate General Khyber Pakhtunkhwa, & others**

.....Respondents.

**AFFIDAVIT**

I, Mian Sadaqat Shah S/O Muhammad Saleh R/O Village Hikmat Abad, Post Office Sardhery, District Charsadda, Presently Working as Office assistant (BPS-16) at Additional Advocate General Office, Abbottabad. do hereby solemnly affirm and states on oath that the contents of accompanying C.M Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Court.

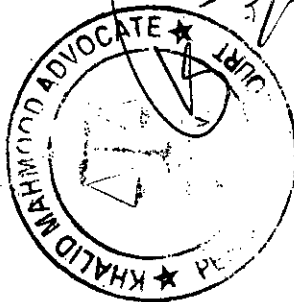
Date: 07/11/2023

*Mian Sadaqat Shah*

(Deponent)

CNIC#17101-0380776-5

Mobile No.0301-8840810





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Annex 'A'

**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT PESHAWAR.**

Service Appeal No. 244 / 2023

Mian Sadaqat Shah S/O Muhammad Saleh R/O Village Hikmat Abad, Post Office Sardhery, District Charsadda, Presently Working as Office assistant (BPS-16) at Additional Advocate General Office, Abbottabad.  
.....Appellant.

**VERSUS**

1. The Advocate General Khyber Pakhtunkhwa, at Advocate General office, Peshawar High Court, Peshawar.
2. Additional Advocate General Office, Abbottabad, Through Deputy District Attorney, Peshawar.
3. Government of Khyber Pakhtunkhwa through Secretary Law & Parliamentary Affairs and Human Right Department, Peshawar.

.....Respondents.

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 AGAINST IMPUGNED OFFICER ORDER DATED:04-10-2022 TO THE EXTENT OF TRANSFER & POSTING ORDER OF THE APPELLANT, WHEREBY APPELLANT WAS POSTED IN THE OFFICE OF RESPONDENT NO.02 BY RESPONDENT NO.01, AND THE APPELLANT HAS NOT BEEN TRANSFERRED TO THE MAIN OFFICE, AT PESHAWAR ON THE BASIS OF SPOUSE POLICY SINCE 2009 AND AGAINST NO ACTION ON THE DEPARTMENTAL APPEAL DATED: 05-10-2022 OF THE APPELLANT BY THE RESPONDENTS WITHIN STATUOTORY PERIOD.

Certified to be true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
6/11/23



6  
Appeal No. 244/2023  
Mian Sadeqat Shah vs Govt



23.10.2023

Learned counsel for the appellant present. Mr. Asad Ali

Khan, Assistant Advocate General for the respondents present.

Learned counsel for the appellant seeks some time for preparation of arguments. The appeal in hand pertains to Camp Court Abbottabad, therefore, to come up for arguments on 25.10.2023 before the D.B at Camp Court Abbottabad. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar

(Muhammad Akbar Khan)  
Member (E)

(Salah-ud-Din)  
Member (J)

\*Nasim Amin\*

ORDER

25<sup>th</sup> Sept. 2023

1. Nobody is present on behalf of appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.
2. This matter was fixed before the Principal Seat, Peshawar on 18.10.2023 and as per previous order sheet, learned counsel for the appellant was present. The bench had directed that as the matter pertained to Camp Court, Abbottabad, therefore, it be sent there. Parcha Peshi was also given to the parties. But today, nobody put appearance on behalf of the appellant before the Tribunal till its rising, therefore, the appeal in hand is dismissed in default. Consign.
3. *Pronounced in open Court at Abbottabad and given under our hands and seal of the Tribunal on this 25<sup>th</sup> day of October, 2023.*

(Farzana Par) Member (J)

(Kalim Arshad Khan) Chairman

Certified to be true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 06-11-2023  
Number of Words Page 2  
Copying Fee 10/-  
Urgent 57/-  
Total 157/-  
Name of Copyist Jhaljhal  
Date of Completion of Copy 06-11-23  
Date of Delivery of Copy 06-11-2023

7

Annex "B"

Appointment #  
505

100, Khandoua Road, Nouadhibou

A & E Department

Emergency

MR # Q2310232086

Full Name	Sadqat Shub	Age	15	Sex	M
Address		Receipt No		Referral	

Hx

Q  
A  
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e  
3

fever  
- with  
- history

Ref. M...  
by onset...  
by...

Cholera

Treatment in Hospital

Cholera

Tabs. Omez - 1-1

Tabs. Paracetamol - 1-1

Tabs. Aspirin - 1-1

Bed rest  
for 03 days

*[Handwritten signature]*