


Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 861 /2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.11.2023	<p>The application for restoration of Appeal no. 356/2023 submitted today Mr. Bilal Ahmad Kakazia 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</p>  <p>REGISTRAR</p>

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Restoration Appli. no. 861/2023

Civil Miscellaneous No. _____/2023

In Services Appeal No. 356/2023

Naimat Ullah, Senior Clerk, Directorate of Labour Peshawar ----- Appellant

Versus

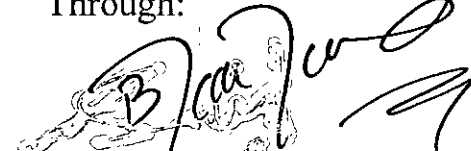
1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary Finance Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar.
3. Secretary Law Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar.
4. Secretary Labour Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar.
5. Director, Labour Directorate Khyber Pakhtunkhwa, 3rd floor FC trust building Sunehri masjid road, Peshawar**Respondents.**

INDEX

Description of Documents		Page No.
Memo of Civil Miscellaneous Application along with Affidavit.		2 - 3
Annexure-A	Copy of the Parcha Peshi for next date of hearing	4
Annexure-B	Copy of the order sheet dated 26-10-2023	5 - 6


Appellant

Through:


BILAL AHMAD KAKAIZAI
(Advocate, Supreme Court of Pakistan)
213, Sunehri Masjid Road
Peshawar Cantt.
03009020098

(2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Civil Miscellaneous No. Restoration appli-no-861/23 /2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9379

In Services Appeal No. 356/2023

Dated 23-11-2023

Naimat Ullah, Senior Clerk, Directorate of Labour Peshawar ----- Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary Finance Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar.
3. Secretary Law Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar.
4. Secretary Labour Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar.
5. Director, Labour Directorate Khyber Pakhtunkhwa, 3rd floor FC trust building Sunehri masjid road, Peshawar**Respondents.**

**APPLICATION UNDER RULES 19 (3) OF KPK, SERVICE TRIBUNAL RULES, 1974 FOR
SETTING ASIDE ORDER DATED 26-10-2023 AND RESTORATION OF SUBJECT
MENTIONED APPEAL WHICH WAS DISMISSED IN DEFAULT / FOR NON-
PROSECUTION AND HAS BEEN CONSIGNED**

Respectfully Sheweth

1. That, the title service appeal was pending before this Honorable Tribunal and was fixed for 05-10-2023.
2. That applicant was given next date for hearing 29-01-2024 whereas the case was fixed on 26-10-2023. (copy of the Parcha Peshi for next date of hearing is attached as Annexure-A)
3. That applicant while come to tribunal while submitting early application in aforementioned case, then came to know that appeal was dismissed in default. (Copy of the order sheet dated 26-10-2023 is attached as annexure B)
4. That, the absence from the Tribunal was not intentional rather the same was due to not putting the Appellant on notice, inadvertently by the office and in this respect an Affidavit is also attached.
5. That, if the matter is not restored the Applicant will suffer and his whole service career will be at stake.
6. That, Applicant / Appellant and his Counsel assured this Honourable Tribunal to be punctual and regular in the proceedings before this Honourable Tribunal, subject to notice.

7. That, the superior courts had time and again held that the matter be decided on its merits rather than deciding the same on the basis of technicalities.

It is, therefore, requested that on acceptance of this Application, the Impugned Order dated 26.10.2023 may please be set aside, titled Service Appeal be restored in its original number and be decided on its merits.

[Handwritten signature]

Appellant

Through:

[Handwritten signature]

BILAL AHMAD KAKAIZAI
(Advocate, Supreme Court of Pakistan)
213, Sunehri Masjid Road
Peshawar Cantt.
03009020098

AFFIDAVIT

I, **Naimat Ullah, Senior Clerk** Applicant / Appellant do hereby solemnly affirm and declare on oath that the contents of the accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

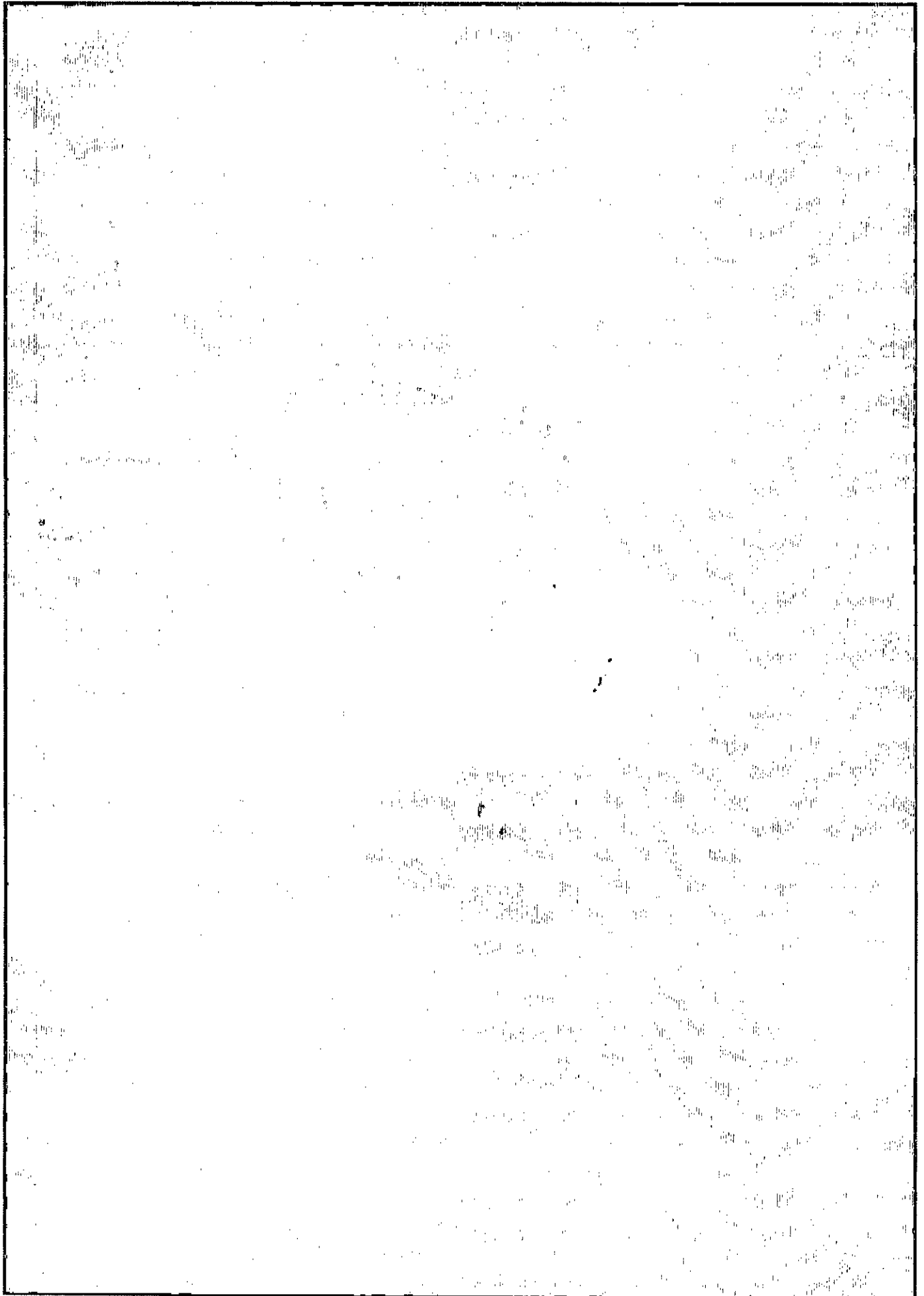
[Handwritten signature]

DEPONENT



A

(4)



5

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 356 / 2023.



NIAMAT ULLAH, Senior Clerk (BS-14),
Directorate of Labour, 3rd Floor, FC Trust Building,
Sunehri Masjid Road Peshawar Cantt.

..... Appellant.

Versus

1. **GOVERNMENT OF KHYBER PAKHTUNKHWA**,
Through Chief Secretary,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. **SECRETARY FINANCE**,
Government of Khyber Pakhtunkhwa,
Finance Department, Civil Secretariat, Peshawar.
3. **SECRETARY LAW**,
Government of Khyber Pakhtunkhwa,

5. **DIRECTOR LABOUR**,
Directorate of Labour, 3rd Floor, FC Trust Building,
Sunehri Masjid Road Peshawar Cantt.

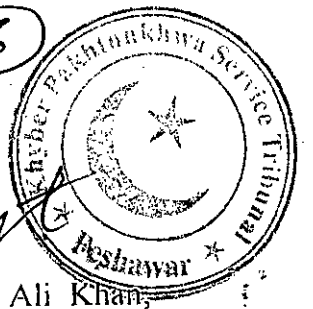
..... Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1973 AGAINST ORDER DATED 30-12-2022, COMMUNICATED TO THE APPELLANT ON 25-01-2023, THROUGH RESPONDENT NO. 5, WHEREBY APPEAL FOR THE GRANT OF ALLOWANCE ON THE ANALOGY / PATTERN OF SECRETARIAT PERFORMANCE ALLOWANCE HAS BEEN REGRETTED

Certified to be true copy
EYAN ULLAH
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

B 6

Appeal No. 356/2023
Niamatullah vs Govt




26th Oct, 2023

1. None for the appellants present. Mr. Asad Ali Khan,
Assistant Advocate General for the respondents present.

2. The case was called for several times but nobody put
appearance on behalf of the appellants till rising of the court.
Therefore, the instant appeal is dismissed in default. Consign.

3. Pronounced in open court in Peshawar and given under
my hand and seal of the Tribunal on this 26th day of October,
2023.


(Kalim Arshad Khan)
Chairman

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

Adnan Shah

Date of Presentation of Application 17-11-2023
Number of Words Page 2
Copying Fee 10/-
Urgent _____
Total 10/-
Name of Copyiest Shahzad
Date of Completion of Copy 23-11-23
Date of Delivery of Copy 23-11-23