


Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 930/2023

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.11.2023	<p>The application for restoration of service appeal no. 1664/2023 submitted today Mst. Haleema Bibi 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>

BEFORE THE HONORABLE KHYBERPUKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

R.A 930/23

C.M No _____/2023

In

Service Appeal No. 1664/2023

Bibi Halima

VERSUS

Government of KPK through Chief Secretary & others

I N D E X

<u>Sr. No.</u>	<u>Description of Documents</u>	<u>Annexure</u>	<u>Pages</u>
1.	Restoration Application		1-3
2.	Affidavit		3
3.	Copy of Service Appeal along with Order Dated; 08-11-2023	"A"	4-9
4.	Wakalat Nama		10

Dated; 24/11/2023

Appellant

Through

SHER HYDER KHAN
ADVOCATE HIGH COURT
LL.B (Hons), LL.M (I-L)

The Magister & Associates
103, Said Anwar Plaza,
Dabgari Gardens Peshawar Cantt
Ph: 091-2214005 Cell: 0336-9377022

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**BEFORE THE HONORABLE KHYBERPUKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

C.M No _____/2023

In

Service Appeal No. 1664/2023

Haleema Bibi (BPS-19)

District Education Officer (Female) Chitral Lower, Tehsil and
District Chitral Lower

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary KPK at Civil Secretariat Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department, at Civil Secretariat Peshawar.
3. Director Elementary and Secondary Education Department, at Civil Secretariat Peshawar.

.....Respondents

**AN APPLICATION WITH EFFECT TO SET ASIDE THE
IMUNGNEED ORDER DATED 08-11-2023, WHEREBY THE
SUBJECT SERVICE APPEAL OF THE APPELLANT HAS
BEEN DISMISSED FOR NON-PROSECUTION AND TO
RESTORE THE SAME IN ITS ORIGINAL NUMBER.**

RESPECTFULLY SHEWET;

Brief facts giving rise to the instant application are as under;

1. **THAT** the subject service appeal was pending for adjudication before this Honorable Tribunal and has been dismissed for non-prosecution on 08-11-2023. Copy of the order dated; 08/11/2023 is annexed as Annexure "A"

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2. THAT due to the following amongst other grounds the impugned order of this Honorable Tribunal dated; **08-11-2023** is required to be set-aside and the **Service Appeal No. 1664/2023** be restored in its original number.

GROUND:

A. THAT the subject appeal was previously listed in preliminary hearing on 03-10-2023, in KP Services Tribunal Camp Court Swat, whereby; the case was adjourned to 18/11/2023 as informed by clerk of the counsel and the same was also noted in diary of the counsel.

B. THAT on 18-11-2023 it was Saturday and the Honorable Tribunal was closed, while confirming about the next date of hearing known about the impugned order on 08-11-2023; whereby the appeal of the appellant has been dismissed for non-prosecution. Then obtained certified copy of the same, hence; the instant application.

C. THAT the impugned order is result of miss understanding of the concerned staff of this Honorable Tribunal and Counsel of the appellant for which the appellant should not be punished.

D. THAT the substantial rights of the Petitioner/appellant are attached with merit of the case; therefore, decision of the case on merit is the priority of Law as well as administration of justice based on statutory rights of appellant.

E. THAT non-compliance with the court proceeding is not intentional but due to miss understanding; beyond the control of appellant, therefore, it is against the well-established norms of administration of justice to decide a case without hearing the petitioner/appellant.

F. THAT the instant application is well within time and there is no legal bar on acceptance of the instant application for the larger interest of justice.

G. THAT any other grounds if required be furnished at the time of arguments.

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It is, therefore, most humbly prayed that on acceptance of this application the impugned order of this honorable Tribunal dated 08-11-2023 be set aside and Service Appeal No. 1664/2023 be restored for regular hearing in its original number.

Bibi Halima
Appellant

Through

SHER HYDER KHAN
ADVOCATE HIGH COURT
LL.B (Hons), LL.M (I-L)

3-A

BEFORE THE HONORABLE KHYBERPUKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

C.M No _____/2023

In

Service Appeal No. 1664/2023

Bibi Halima

VERSUS

Government of KPK through Chief Secretary & others

AFFIDAVIT;

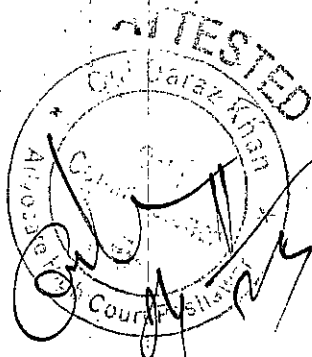
I, Bibi Halima W/o Nazir Ahmad Resident of Lall House, Mohallah Goldur Chitral Town District and Tehsil Chitral Lower (Appellant) do hereby solemnly verify and declare on oath that all the contents of the instant restoration application; are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.

Dated; 24/11/2023

Bibi Halima
Deponent
Bibi Halima
W/o Nazir Ahmad

Verified by,

SHER HYDER KHAN
ADVOCATE HIGH COURT
LL.B (Hons), LL.M (I-L)



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**BEFORE THE BEFORE THE KHYBER PAKHTUNKHUWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No 1664 **Of 2023**



Bibi Halima

**W/o Nazir Ahmad Resident of Lall House, Mohallah
Goldur Chitral Town District and Tehsil Chitral Lower.**

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary KPK at Civil Secretariat Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department, at Civil Secretariat Peshawar.
3. Director Elementary and Secondary Education Department, at Civil Secretariat Peshawar.

.....Respondents

**APPEAL U/S 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974, AGAINST THE
ENTRY IN SERVICE BOOK IN RESPECT OF DATE
OF BIRTH OF THE APPELLANT; WHICH IS
20.10.1968 BUT HAS WRONGLY BEEN MENTIONED
AS 20.10.1964;**

PRAYER;

On acceptance of the instant service appeal the impugned entry in respect of date of birth may please be corrected as 20.10.1968 according to law.

ATTESTED

**EXAMINER
Khyber Pakhtunkhwa**

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RESPECTFULLY SHEWETH:

Brief facts and grounds giving rise to the instant service appeal are as under;

ON FACTS

1. That the names and addresses of the parties have correctly been given in the head note of the instant service appeal, which are sufficient for the purpose of effecting their proper services and citation etc.
2. That the appellant is law abiding citizen of Islamic Republic of Pakistan and serving the respondent department in (BPS-19). Copy of CNIC is attached herewith as Annexure "A"
3. That the appellant got knowledge of the wrong entry from perusal of the service book and there after filed suit for declaration before the Civil Court for the correction of her date of birth in the service book; but unfortunately, the same has been concurrently dismissed on the ground that the civil court has no jurisdiction to entertain the suit in respect of any entry in service record of a civil servant. However, the august supreme court of Pakistan vide its order dated; 20.03.2023 disposed off appeal of the appellant with the observation that the appellant is at liberty to avail the appropriate remedy before the competent forum. Copy of Judgment Dated; 20-03-2023 is Annexure "B"
4. That in pursuance to the order/judgment of Supreme Court of Pakistan Dated; 20.03.2023 the appellant submitted departmental appeal before the respondent No. 1 dated; 18.04.2023. Copy of Departmental Appeal Dated; 18-04-2023 is Annexure "C"
5. That since 18-04-2023 the departmental appeal of the appellant is pending before the respondent No. 1 without any response and

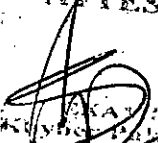
ATTESTED



plausible reasons hence; the instant service appeal on the grounds inter alia.

GROUNDS

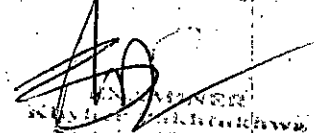
- A. That in action of the respondents is without any justification and basic norms of justice hence; liable to indulgence of the Honorable Tribunal.
- B. That the impugned entry has been made by the officials of the respondent department and there is no role of the appellant in this respect hence; the appellant cannot be deprived of her fundamental rights without any fault. Copy of service book is attached as Annexure "D"
- C. That the date of birth of the appellant has been correctly mentioned in her educational testimonials and CNIC but the respondent department has ignored this fact while entering date of birth of the appellant in her service book and though the documents are attached with the departmental appeal but the respondents are reluctant to consider the same. Copy of CNIC, Matric Certificate and Pay slip are attached as Annexure "E"
- D. That the appellant has not been treated in accordance with law, Rules and her rights guaranteed under the law therefore, this conduct of the respondents tantamount to naked violation of the provisions of the Civil Servants laws.
- E. That the impugned entry is not backed by any legal or cogent reason and is a classic case of negligence on the part of the respondents and mis-use of authority.
- F. That the acts and omission of respondents is against the principle of the natural justice and fair play.

ATTESTED


- G. That the instant appeal relates to terms and conditions of civil servant and this honorable tribunal has been vested with statutory power to entertain the matter.
- H. That the respondents violated Article, 4 of the Constitution of Islamic Republic of Pakistan, 1973 with its heading "Rights of Individual to be dealt with in accordance with the Law" it is mandatory for respondents to comply with law and rules in fair, equal and lawful manner as well as prohibitory for them to act in a manner which is not admissible in law/rules; hence their such act with effect to compel the Appellant for retirement is totally void.
- I. That from very prospect of the Constitution of Islamic Republic of Pakistan, 1973 and policies governing the subject Respondents have no excuse at all to avoid vested rights of the Appellant in matter of performance of service.
- J. That according to Article, 25 of the Constitution of Islamic Republic of Pakistan, 1973 all citizens are equal before Law and are entitled to equal protection of Law but the respondents violated this Article of the Constitution.
- K. That act of respondents with effect to deny right to service of Appellant and their omission to protect the same is; against Article, 27 of the Constitution of Islamic Republic of Pakistan, 1973 with its heading "Safe Guard against discrimination in services".
- L. That the petitioner seeks leave of this Honorable Court to argue/raise additional grounds at the time of arguments.

It is therefore; humbly submitted on acceptance of the instant service appeal the impugned entry in respect of date of birth may please be corrected as 20.10.1968 according to law.

ATTESTED


W. M. ANSARI
Secretary

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Any such relief which this honorable court deems proper and just be granted to the Appellant against the respondents keeping in view the circumstances of the case.

Dated; 15-08-2023

Appellant

Through

SHER HYDER KHAN
ADVOCATE HIGH COURT
LL.B (Hons), LL.M (I-L)

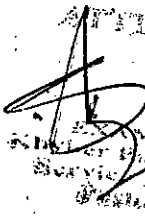
The Magister & Associates
103, Said Anwar Plaza,
Dabgari Gardens Peshawar Cantt
Ph: 091-2214005 Cell: 0336-9377022

CERTIFICATE:

It is certified that no other service appeal on the same subject has been filed before this Honourable Tribunal.

Counsel

ATTESTED


SHER HYDER KHAN
ADVOCATE HIGH COURT
LL.B (Hons), LL.M (I-L)

Service Appeal No. 1664/2023

(A) Anex "A"

Bibi Halima vs Govt



ORDER
08.11.2023

Nemo for the appellant.

The appeal in hand was called on for hearing after various intervals, however nobody put appearance on behalf of the appellant till rising of the court, therefore, the appeal in hand stand dismissed in default. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
08.11.2023

(Salah-ud-Din)
Member (Judicial)
Camp Court Swat

Certified to be true copy

Naqem Amin
Khyber Pakhtunkhwa
Service Tribunal
Peshawar 23/11/23

Naqem Amin

Date of Presentation of Application 23/11/2023
Number of Words Pages = 6
Copying Fee 30/-
Urgent 5/-
Total 35/-
Name of Copyist _____
Date of Completion of Copy 23/11/23
Date of Delivery of Copy 23/11/23

BEFORE THE HONORABLE KHYBERPUKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

C.M No _____/2023

In

Service Appeal No. 1664/2023

Bibi Halima

VERSUS

Government of KPK through Chief Secretary & others

**APPLICATION FOR FIXATION OF THE INSTANT
APPLICATION FOR RESTORATION OF SERVICE APPEAL
IN PRINCIPLE SEAT/PESHAWAR OF THIS HONORABLE
TRIBUNAL.**

Respectfully Sheweth;

1. That the above titled restoration application is pending for adjudication before this Honorable Tribunal at Peshawar.
2. That the applicant and counsel for the applicant also residing/practicing at Peshawar.
3. That there is no legal bar on acceptance of the instant application for the better administration of justice.

It is therefore; humbly request that on acceptance of the instant application the above titled CM may very kindly be fixed for hearing before the principal seat at Peshawar.

Appellant

Through

SHER HYDER KHAN
ADVOCATE HIGH COURT
LL.B (Hons), LL.M (I-L)

بعد التفت

سروس ٹریبونل پشاور

موزنہ 23-11-23
مقدمہ
ذموی
چیم

2 بجانب
بنام حکومت

باعث تحریر آنکے

مقدمہ مندرجہ عنوان باللائیں اپنی طرف سے واسطے پیر پھکا د جواب وہی وکل کاروائی کے لئے
آن مقام پشاور کیلئے سید سعید ایدریت

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالثتہ فیصلہ برحالیہ دینے جواب وہی اور اقبال دعویٰ اور
بہ صورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تسدیق
زر میں پر دستخط کرنے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل مگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قاضی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
پر واضح منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوا سے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا اذکالت نامہ لکھ دیا کہ مندر ہے۔

Patel Haidari

الرقوم 23
ماہ نومبر 2023

پشاور
مقام
کے لئے منظور ہے
Accepted