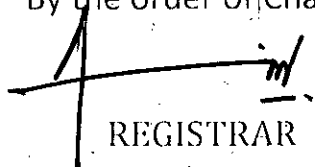


Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 938/2023

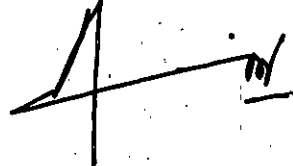
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	01.12.2023	<p>The application for restoration of service appeal no. 356/2023 submitted today by Mr. Yasir Saleem Advocate. It is fixed for hearing before Single Bench at Peshawar on _____. Original file be requisitioned. Parcha Peshi is given to the counsel for the applicant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The application for restoration of appeal no. ~~356~~/2023 received to-day i.e. on 30.11.2023 is incomplete on the following score which is returned to the counsel for the applicant for completion and resubmission within 15 days.

- 1- Application is not in proper format.
- 2- Spare copies/sets of memo of application along with annexures for all respondents may also be submitted with the application.

No. 3747 /S.T.

Dt. 1/12 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Yasir Saleem Adv.
High Court Peshawar.

*Mr. Saleem
Re-submitted
copy after clearing
8/12/23*

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

In the matter of
Appeal No. 356/2023.
Dismissed in default on 26.10.2023

R.A. No. 938/2023

Khyber Pakhtunkhwa
Service Tribunal

Entry No. *9617*

Dated *30-11-2023*

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

(Appellant)

VERSUS

1. **Government of Khyber Pakhtunkhwa** through Chief Secretary, Civil Secretariat, Peshawar.
2. **Secretary Finance, Government of Khyber Pakhtunkhwa**, Finance Department, Civil Secretariat, Peshawar.
3. **Secretary Law, Government of Khyber Pakhtunkhwa**, Law Department, Civil Secretariat, Peshawar.
4. **Secretary Labour, Government of Khyber Pakhtunkhwa**, Labour Department, Civil Secretariat, Peshawar.
5. **Director Labour, Director of Labour, 3rd floor, FC Trust Building, Sunehri Masjid Road, Peshawar Cantt.**

(Respondents)

**Application for restoration of titled service appeal
which has been dismissed for non-prosecution vide
order dated 26.10.2023.**

Respectfully Submitted:

1. That the above noted appeal was pending in this Honorable Court and fixed for 29.01.2023.
2. That in order to sought early hearing of the titled appeal, the applicant/appellant submitted an early hearing application before the Hon'ble Tribunal.
3. That the Hon'ble Tribunal was kind enough in the titled appeal hence the matter was accelerated and fixed for 26.10.2023.
4. That astonishingly no notice or information regarding fixation of titled appeal on 26.10.2023 was given to the counsel or the applicant/appellant, hence due to absence of the parties, the impugned Order dated 26.10.2023 was passed, whereby the main appeal was dismissed in default (copy of the impugned order dated 26.10.2023 is attached as Annexure A)
5. That the appellant came to know regarding fate of his appeal on 27.11.2023, when clerk for the counsel for the applicant approached office of the Tribunal and asked about the fate of his early hearing application.

6. That as per record no notice or information was ever regarding the fixation of the titled case on 26.10.2023.
7. That the absence from the Tribunal was not intention rather the same was due to not putting the applicant on notice inadvertently by the office and in this respect an affidavit is also attached.
8. That if the matter is not restored the applicant will suffer and his whole service career will be at stake.
9. That the applicant is ready to pursue the case in hand diligently and vigilantly in future if the Honourable Tribunal allows restoration of the appeal subject to notice.
10. That valuable rights of the applicant are involved in the instant appeal, hence the case deserves to be decided on merit.
11. That the superior courts have always favored adjudication of disputes on merits rather than technicalities.

It is, therefore, prayed that on acceptance of this application, the instant appeal may please be restored and be decided on merit.

Naveed

Applicant/Appellant

Through,

Yusuf

YASIR SALEEM

Advocate Supreme of
Court Pakistan

&

YASIR KHALID

Advocate High Court
Peshawar

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the above application are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



Naveed
Deponent

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

In the matter of
Appeal No. 356/2023.
Dismissed in default on 26.10.2023

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

(Applicant/Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil
Secretariat, Peshawar and others.

(Respondents)

**APPLICATION FOR CONDONATION OF DELAY,
IF ANY IN FILING THE TITLED APPLICATION**

Respectfully submitted:

1. That the appellant has today filed the accompanied appeal before this honorable tribunal in which no date of hearing is fixed so far.
2. That the applicant prays for condonation of delay if any in filing the instant appeal inter alia on the following grounds:-

GROUND OF APPLICATION

- A. That the above noted appeal was pending in this Honorable Court and fixed for 29.01.2023, in order to sought early hearing of the titled appeal, the applicant/appellant submitted an early hearing application before the Hon'ble Tribunal, was kind enough in the titled appeal hence the matter was accelerated and fixed for 26.10.2023, as per record no notice or information was ever regarding the fixation of the titled case on 26.10.2023 was issued.
- B. That the delay if any in filing the instant restoration application was not willful nor the same can be attributed to the appellant, since it was due to the late communication of the order dated 26.10.2023, therefore the same deserves to be condoned.

- C. That valuable rights of the appellant are involved in the instant case in the instant case, hence the delay if any in filing the instant case deserves to be condoned.
- D. That it has been the consistent view of the Superior Courts that causes should be decided on merit rather than technicalities including limitation. The same is reported in 2014 PLC (CS) 1014 2003 PLC (CS) 769.

It is therefore humbly prayed that on acceptance of this application the delay if any in filing the instant appeal may please be condoned.

Naveed
Applicant

Through

Yusuf

YASIR SALEEM

Advocate Supreme of
Court Pakistan

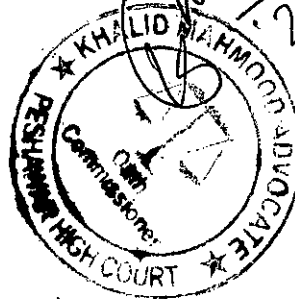
&

YASIR KHALID

Advocate High Court
Peshawar

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the above application are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



Naveed
Deponent

A/C

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 REGRETTEED**

Certified to be true copy
28/11/23
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE 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

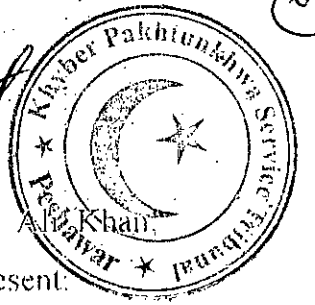
1. GOVERNMENT OF KHYBER PAKHTUNKHWA,
Through Chief Secretary,
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. SECRETARY FINANCE,
Government of Khyber Pakhtunkhwa,
Finance Department, Civil Secretariat, Peshawar.
3. SECRETARY LAW,
Government of Khyber Pakhtunkhwa,
Law Department, Civil Secretariat, Peshawar.
4. SECRETARY LABOUR,
Government of Khyber Pakhtunkhwa,
Labour Department, Civil Secretariat, Peshawar.
5. DIRECTOR LABOUR,
Director 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,
COMMUNICAED TO THE APPELLANT ON 25-01-2023,
THROUGH ON THE ANALOGY/PATTERN OF
SECRETARIAT PERFORMANCE ALLOWANCE HAS
BEEN REGRETTEED.**

A. No. 356/2023
Miamatullah vs Grant

16

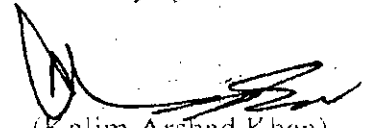


26th Oct, 2023

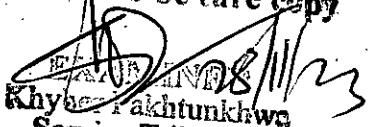
1. None for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents, present.

2. The case was called for several times but nobody put appearance on behalf of the appellant 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


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Atiqur Shoh

Date of Presentation of Application 28-11-23
Number of ~~wo~~ Page = 2
Copying Fee 10/-
Urgent 5/-
Total 15/-
Name of Copyist Shahzad
Date of Completion 28-11-23
Date of Delivery 28-11-23