# Form-A

## FORM OF ORDER SHEET

Court of

#### Restoration Application No. 12/2024

Order or other proceedings with signature of judge

S.No. Date of order Proceedings

03.01,2024

3

The application for restoration of service appeal no. 2228/2019 received today by registered post through Muhammad Liaqat Advocate. It is fixed for hearing before touring Division Bench at A.Abad on\_\_\_\_\_\_.Original file be requisitioned.

By the order of Chairman

# REGISTRAR

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The application for restoration of appeal no. 2228/2019 received to-day by registered post on 13.12.2023 is incomplete on the following score which is returned to the counsel for the applicant for completion and resubmission within 15 days.

Application is not on proper format.

- 2- Memo of application be supported with by an affidavit duly attested by the Oath Commissioner.
- <sup>1</sup>3- Chamber, Email address and B.C number of the counsel engaged is not mentioned on the index of the application.

No. 3873. /S.T.

Dt. 14-12 /2023.

REGISTRAR SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Muhammad Liagat Adv. High Court A.Abad.

Respected Sir application after Removing the objection is Re-Sembitted Phease. T aminiad Liogat

Adv ATD

# PESHAWAR HIGH COURT, ABBOTTABAD BENCH

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# **Advocate Detail**

Full Name: MUHAMMAD LIAQAT

Father's Name; KIIAN BAHADAR

Date of Birth: 01.06.1977 CNIC # 13101-0958780-1

Permanent Address: Mohallah Ochar Salhad, Tehsil and District Abbottabad

Present Address: Ayub Tanoli Lawyer Plaza Office No.44 District Court Abbottabad

Email: \_\_\_\_\_District: ABBOTTABAD

Mobile # <u>0332-8900935</u>

License No. DC: L.No.2860 Issue Date: 19.08.2014

License No. HC: L.No. 2860 Issue Date: 28.07.2017



# BEFORE THE HONOURABLE KPK SERVICE TRIBUNAL RANO

**PESHAWAR**.

12 2023 ĆM. No IN Appeal No.2228/2019

### Shakeela Bibi

Appellant

#### **VERSUS**

Govt of KPK etc.

...RESPONDENTS

# SERVICE APPEAL **APPLICATION FOR RESTORATION**

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. PETITIONER

Through:

- 2 -

(Muhammad Liaqat) Advocate High Court, Abbottabad

## BEFORE THE HONOURABLE KPK SERVICE TRIBUNAL RANO

**PESHAWAR**.

12-2023 CM. No IN Appeal No.2228/2019

Shakeela Bibi

#### Appellant

#### VERSUS

Govt of KPK etc.

### ... RESPONDENTS

#### SERVICE APPEAL

APPLICATION FOR RESTORATION OF APPEAL No 2228/2019 WHICH IS DISMISS IN DEFAULT.

Khyber Pakhtukht sevice Tribunal Diary No. 9882

13-12-2023

#### Respectfully Sheweth;

- 1. That the instant appeal was pending. Disposal in this tribunal and was fixed for 22.02.2023. (Copy of appeal in attached as annexure "A")
- That Honorable tribunal dismiss the appeal .of the appellant on 2. 22.02.2023 in non prosecution .(Copy of order is attached as annexure "B")
- That no date i.e. 22.02.2023 and that date was not in the 3. knowledge of the appellant nor noted his counsel diary (copy of extract of diary is attached as annexure "C")
- That on 28-11-2023 appellant inquire about the instant appeal 4. through his council and the reader of the court inform after inquiry. That instant appeal is dismiss in default on 22.02.2023.
- 5. That peruse right of the appellant are involve, that when came in the knowledge of the appellant application being file well with in time.
- That it is the basic principal of law that case must be decided on 6. merit not on technical ground.
- 7. Other point will be agitated at the time of argument.

PRAYER: It is humbly prayed that on acceptance of instant application appeal may please be restored and decide the same on merit.

... PETITIONER

Through:

(Muhammad Liagat)

Advocate High Court, Abbottabad

- 1 -



BEFORE THE HONOURABLE KPK SERVICE TRIBUNAL

# PESHAWAR.

GM. No 12 2023 IN Appeal No.2228/2019

Shakeela Bibi

Appellant

#### VERSUS

Govt of KPK etc.

...RESPONDENTS

# SERVICE APPEAL

### APPLICATION FOR RESTORATION OF APPEAL

### AFFIDAVIT:

I, Shakeela Bibi Primary School Head Teacher Govt. Girls Primary School Salhad Abbottabad *petitioner*, do hereby solemnly affirm and declare on Oath that the contents of instant *Application* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Dated:- 23/12 / 2023

AnBibi ...deponent



- 3 -

Annexane Ktunkh E HONOURABLE KHYBER PAKHTUNKEWA BEF ERVICE TRIBUNAL PESHAWAR eshawar Appeal No. 2228 /2019

Shakeela Bibi Primary School Head Teacher, Govt. Girls Primary School Salhad, Abbottabad.

#### VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.

Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

District Education Officer (Female) Abbottabad.

Sub Division Education Officer (Female), Abbottabad.

District Account Officer, Abbottabad.

.. RESPONDENTS

..APPELLAN

17 No. 71.



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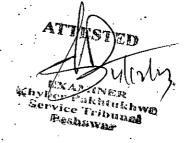
4.

5.

SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER No.289 dated 17/01/2015 ISSUED BY THE RESPONDENT NO.3 WHEREIN IMPOSITION OF RECOVERY OF RS.387444/- FROM APPELLANT APPROXIMATELY @ 5000/- PER MONTH IN THE LIGHT OF FAKE ABSENT PERIOD W.E.F November 2013 to October 2014, VIDE RESPONDENT NO. 3 RELEASED PETITIONER SALARY TO THE EXTENT OF RS. 1,36,000/- AND REMAINING RECOVERY IN THE

SHAPE OF DEDUCTION IS DUE AGAINST THE RESPONDENT NO. 3 AND 5, i.e. RS. 90000/- OR WHICH IS OPROVED THROUGH RECORD, WAS ARE ILLEGAL, WITHOUT LAWFUL MADE AUTHORITY AND WITHOUT JURISDICTION AND DECISION PASSED BY THE RESPONDENT NO.3 AND 5, NO SHOW CAUSE NOTICE WAS GIVEN, NOR ANY OPPORTUNITY OF HEARING WAS GIVEN TO THE PETITIONER, AND PARTIALLY DECISION WAS MADE AGAINST APPELLANT TO OF THE MALAFIDE ACT CONCEALED NO.3 REGARDING FREQUENT RESPONDENT TRANSFER AND WITHDRAWAL ORDER AND CONSEQUENT THEIR UPON, PENALIZE THE APPELLANT.

PRAYER: ON ACCEPTANCE OF INSTANT APPEAL THE PUNISHMENT OF RECOVERY OF AMOUNT AS MENTIONED ABOVE AND SHOWING ABSENTED PERIOD WHICH IS WITHOUT ANY FAULT ON THE PART OF APPELLANT MAY GRACIOUSLY BE SET-ASIDE AND APPELLANT MAY PLEASE BE EXONERATED FROM CHARGES LEVELED AGAINST THE APPELLANT IF ANY



AND ANY PROCEEDING IN THE LIGHT OF EXPARTE SHOW CAUSE NOTICE AND WITHOUT GIVING PROPER OPPORTUNITY OF PERSONAL HEARING TO THE APPELLANT AND ANY ADVERSE REMARK IN SERVICE RECORD, MAY GRACIOUSLY BE ALSO EXPUNGED IF MADE AND ABSENTED PERIOD PRESUMED TO THE PART OF SERVICE ALONGWITH BENEFIT AND RECOVERED AMOUNT RS. 90000/- OR WHICH IS PROVED THROUGH RECORD MAY ALSO BE RETURN TO APPELLANT FORTHWITH.

Respectfully Sheweth;-

1.

May it please your lordship the brief fact of the instant appeal are as under:-

That appellant was appointed as PTC Teacher in Education Department vide appointment order Endst No.12102-6 dated 28/11/1990. Copy of service book is annexed as Annexure "A".

2. ATTESTED & EXAMINER & hyber Pakhtukhwa Service Tribunal Peshawar That during the year 2013 petitioner promoted and transfer from BPS-14 to BPS-15 (SPST to PSHT)

4.

GGPS Kunj to GGPS Toheedabad Circle Nathiagali on the basis of seniority cum fitness vide order No.1261-67 dated 28/02/2013. Copy of order No. 1261-67 dated 28/02/2013 is annexed as Annexure "B":

That appellant during posted/ duty in GGPS aggrieved reported to being Toheedabad respondent No.3 while No.3, respondent transferred appellant from GGPS Toheeadabad to GGPS Mangal vide transfer/ adjustment order and register No.2223-25 dated 14/05/2013 attendance in respect of Government Girls Primary School, Mangal, from May 2013 to September, 2013 are annexed as Annexure "C" & "D".

That one Mst. Aneeza PSHT promoted and transfer from GGPS Mangal to anywhere, again retain and adjusted in same School in place of appellant by the respondent No.3 in the light of affidavit dated 01/06/2013 submitted by Mst. Aneeza PSHT and was compensated and adjusted in GGPS Mangal in place of appellant while order dated 08/06/2013 issued by the respondent No.3 in respect of Mst. Aneeza PSHT in GGPS Mangal.

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"G" & "H".

Copy of order dated 08/06/2013 is annexed as Annexure "E".

That after 5 months appellant was again transferred form GGPS Mangal to GGPS Toheedabad vide order No.1296-99 dated 07/10/2013 appellant transfer while order dated 14/05/2013 in respect of GGPS Mangal was cancelled. Copy of vide order No.1296-99 dated 07/10/2013 is annexed as Annexure "F".

That appellant after filing of departmental appeal before the respondent No.1 & 2, during pendency of departmental appeal, filed civil suit before the Civil Court Abbottabad on 17/07/2014, while legal notice given to the respondent No.3, on 18/08/2014, vide which appellant transfer from GGPS Mangal to GGPS Toheedabad was challenged while appellant was assumed her duty in GGPS Mangal. Copies of civil suit dated 17/07/2014 in the light of court order and legal notice dated 18/08/2014 are annexed as Annexure

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vice Trounal Peshawar 6/10/20

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That the appellant being aggrieved filed service appeal No.989/2014 before this Honourable Service Tribunal KPK on 02/08/2014 alongwith status quo application in which Honourable Service Tribunal issued the status quo and suspend the operation of impugned order dated 07/10/2013 passed by the respondent No. 3, in the light of stay order appellant performed her duty in Govt. Girls Primary School, Mangal from May 2013 to October 2014. During the pendency of service appeal respondent No. 3 transfer/ adjustment to appellant from GGPS Toheedabad Circle Nathiagali to GGPS Azizabad Circle Dhamtour vide order, Endst No.6966-67 dated 01/11/2014 and register of attendance in respect of GGPS Azizabad from November 2014 to August, 2015 are annexed as Annexure "I" & "J".

That the respondent No.3 does not redressal the grievances of appellant during pendency of appeal, the respondent No.3 in this respect obtained affidavits dated 29/04/2015 and 07/05/2015 respectively from the appellant to resolve the grievances of petitioner. Petitioner in term of conditional affidavit service appeal was withdrawn

and the appellant was transferred from GGPS Azizabad to GGPS Salhad vide order No.1334-36 dated 13/08/2015 petitioner is still working in this school. Copy of affidavits dated 29/04/2015 and 07/05/2015 and order dated 13/08/2015 are attached as Annexure "K" & "L" FARMER L-T

That the appellant due to aggrieved by the respondent No.3 file a civil suit before the District Court Abbottabad dated 17/7/2014 in this respect legal notice dated 18/08/2014 was also given to the respondent No.3. Copies of Civil Suit and legal notice are attached as Annexure "G" & "H".

10. That during the period of May 2013 to September 2013 in GGPS Mangal, appellant performed her duties regularly but the respondent No.3 stop her salary on the basis of fake absent period May 2013 to October 2014 to victimize the appellant moreover, the salary statement of appellant from May 2013 to April, 2014 and salary deduction from the account of appellant to AC 7043 DDEO (Female) of June, 2015 and May 2015 are concerned, in this respect ADO Circle give the socalled report which is totally contrary against the

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facts and evidence of appellant in this respect the appellant give legal notice dated 17/12/2015 to the ADO concerned. Copies of salary statement, report of ADO and legal notice dated 17/12/2015 are attached as Annexure "O", "P" & "Q":

That appellant felling aggrieved filed writ petition No.177/15 alongwith C.M No.355-A/2016 before the Honourable High Court Abbottabad Bench passed the order dated 30/05/2016 in which direction was given to respondent No.3 & 5 not to deduct the amount from salary of appellant while Honourable High Court directed the appellant to seek proper remedy in proper forum. Copy of writ petition No.177-A/2015 alongwith C.M No.355A/2016 and order dated 30/05/2016 are annexed as Annexure "R", "S" & "T".

That appellant after hard struggle not to succeed for the obtaining of inquiry or record and impugned order, therefore, appellant filed departmental appeal without impugned order before the respondents No.1 & 2 on dated 02/01/2019, but uptill now no response was given to appellant more so imposition of recovery is

monitory proceeding against-which no limitation was run against the appellant if otherwise appellant have a right to file application for condonation of delay with the permission of court. Copy of departmental appeal dated 02/01/2019 is annexed as Annexure "U".

That the appellant time and again reported to the office for the obtaining of impugned order but the respondent No.3 refuse to give the impugned order and other record also in this respect appellant filed application under RTI Act dated 05/05/2018 and 15/01/2019 respectively. Copies of applications under RTI Act, 2013 are annexed as Annéxure "V", and Copy of only impogned order was given to applant on 30-04-19 Copy of the order is attached as annue, W 14. That appellant have no other remedy except present appeal before this Honourable Tribunal, inter-alia on the following grounds;-

### **GROUNDS:-**

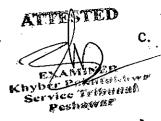
ESTED akhtiakht ice Tribunal Peshawas

13.

That impugned order passed by the respondent No.3 &  $5 \cdot in respect of$  D

imposition of recovery of Rs.3,87,444/- @ 5000/- per month from the salary of petitioner and due to act of respondent No.3 in the light of frequent transfer order and attendance register of petitioner w.e.f May 2013 to October 2014 in GGPS Mangal shall not presumed to be absented on the basis of exparte show cause and exparte inquiry on the back of petitioner, therefore, impugned order passed by the respondent No.3 may kindly be struck down.

That some record is self explanatory and record of attendance shows the presence of appellant and absented period in the light of evidence of appellant may kindly be presumed to be part of service hence, the total proceeding initiated against the appellant on the basis of malafide act of respondent No.3, therefore, may kindly be set-aside.



b.

That the impugned order in respect of imposition of deduction of salary on the



basis of absent period are illegal, baseless, just to save the skim of respondent No.3, from the illegal frequent transfer order to cancel and escape from the fact and record just to penalize the appellant. Therefore, the impugned order and whole proceeding may kindly be set-aside.

That the impugned order and ex-parte inquiry without adopting the proper mode, not fair and impartial hence liable to be setaside.

That the act of respondents are against the Article of 11 of the Constitution of Pakistan 1973 which amounts force labour, therefore, appellant is entitled for the recovery of said amount.

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That the appellant has been performing her duty in Education Department, dedicatedly and devotedly for the last tow and half decades and there has never been any sort of

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complaint against the appellant, therefore, appellant may also be entitled for the recovery of illegal imposition of amount.

That the respondent No.3 did not consider the request of appellant under RTI Act 2013 and did not provide impugned order dated 17/01/2015 within time to laps the time of appellant for the redressal of grievances on the next higher forum, in this respect appellant received the impugned order on 30/04/2019, after the laps of time, therefore, no limitation is run against appellant, and appeal of appellant is well within time.

That the present instant appeal is monitory in nature hence limitation is not attracted otherwise if the court is presume that the instant appeal is otherwise time barred the appellant has a right to file application for condonation of delay.

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It is, therefore, humbly prayed that on acceptance of instant appeal the punishment of recovery of amount and showing absented period which is without any fault on the part of appellant may graciously be set-aside and appellant be exonerated from charges leveled against the appellant on the basis of enquiry conducted ex-parte and without hearing appellant and any adverse remark in service record, may graciously also be expunged if made and a absent period presumed to the part of service and recovered amount Rs. 90000/- may also be return to petitioner forthwith.

...APPELLANT

(MUHAMINAD LIAQAT)

Advocate High Court, Abbottabad

### VERIFICATION;-

Dated: 02/05/2019

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

Through

APPELLANT ATTESTE khrukhw Iribupad

# BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. -A/2019

Shakeela Bibi Primary School Head Teacher, Govt. Girls Primary School Salhad, Abbottabad.

...APPELLANT

#### VERSUS

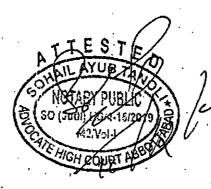
Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar & Others.

... RESPONDENTS

# SERVICE APPEAL

# AFFIDAVIT

I, Shakeela Bibi Primary School Head Teacher, Govt. Girls Primary School Salhad, Abbottabad, do hereby solemnly affirm and declare that the contents of forgoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Service Tribunal.



DEPONENT

AMINER ber Pakhtukhwo

vice Tribunal eshawar

Annexare Vo-2228/2019 cela Bibi NS Grai

None present on behalf of the appellant. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

2. On previous date learned counsel for the appellant sought adjournment. Today nobody is present on behalf of the appellant till rising of the court, therefore, the appeal is dismissed in default. Consign.

3. Pronounced in open\_court in Abbottabad and given under our hands and seal of the Tribunal on this  $22^{nd}$  day of February, 2023.

(Salah Ud Din) Member (Judicial) Camp Court Abbottabad

ture co E> Khyber Pakhtunkhwe Service Tribunal

Peshawar

22<sup>nd</sup> Feb, 2023

(Kalim Arshad Khan) Chairman Camp Court Abbottabad

D

Date of Presentation of Application Number of Worshafe Copying Fee\_ Urgent. KAD Total Name of Copyles: Date of Complection Date of Delivery of

U Annexure FEBRUARY 2023 Even a single doubt if found reasonable would be sufficient to acquit the accused, giving him/them Benefit of 1- شكعبان ١٣٣٢ه doubt because bundle of doubt s were not required ۱۲ - بهای ۲۰۷۹ بری to extend the legal Benefit to the accused. [2022 PCr.LJ 616] WEDNESDAY يُرتواحكى طرف كان لكايا كرداد رخاموش رباكرو\_(الاعراف) آيت نمبر 204 <u>\_ قرآن پڑھا جا</u> اورجد .09 المرح المتكام 63  $C_{\tilde{t}}$ الدكرة Ċ بريحة OY 64 26 NIR C; p 0. 8/0 oμ ðЦ G N.R 15 . Ø 103 16 JH () 8 ð 27 30 63  $\mathcal{C}$ 10 ج يدمو اقترح با الرهين Į 2 20 03 المجريواس 03 ŝ 28 103 TI واحربي بعيرا 2 0 15/03 -ام م لغته ŏy Z oi 15/03 (es 57-ی ال J8 27 03 *ф*Г. Cr (9. فتتر لتراح 2.8 E.P.S ~ 03 02 63  $c_{1}$ ليلود دينيلف ź 28 14/02 3 09 0 13. ومرج ۱L نبر оð 103 تر مر کاراتی C.T مرميرك 28 24/03 لرديد لير Sc Lis CIX 21 091 09 2 <u>AAC.</u> 8/ 6 6 х 09/03 <u>AAC(R)</u> <u>ب و د د ا</u> 8Mg ሮ والبريحان 27 03/03 D·J ŵ جسرتا كا مبر بين ن الله پر 🖓 ų. 18/02 22 03 R·C ارلان H·C Atowned C.S. لوريجذط يناً) ž 5/1 ر . O JmI 27/07 نان على خان سرما ( Ru. 20 لماتكركه

69 • بعدالت منادے شیری کنتو کو ار سر فس الشريبيونا شکیلر، دے، دے Tersing 1 P.K. 1 Sing of عنوان: ساكل منحانه نوعية مقدمه: د رُواس سرسرري مخدم باعث تحريراً نک مقدمہ مندرجہ میں اپنی طرف سے داسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام ا بتوليره بابي تدر ط لياقر ..\_ لووکیل مقرر کرتے اقر ارگر تاہوں کہ صاحب موصوف کومقد مہ کی کل کا روائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کوکرنے راضی نامہ دتقر رثالث و فیصلہ برحلف ودینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ وعرضی دعویٰ کی تصدیق اوراس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل پاکسی جزوی کاروائی کے لئے کسی اوروکیل یا مختارصا حب قانونی کواپنے ہمراہ این بجائے تقرر کا اختیار بھی ہوگا درصا حب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساخته پرداخته مجھکومنظور وقبول ہوگا۔ دوران مقدمہ جوخر چہ دہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایارقم وصول کرنے کابھی اختیار ہوگا۔اگرکوئی پیشی مقام دورہ پر ہویا حد ہے باہر ہوتو دکیل صاحب موصوف یا بند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اورا گرمختار مقرر کر دہ میں کوئی جز دبقایا ہوتو دکیل صاحب موصوف مقدمہ کی پیروی کے یابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بصيغه مفلس کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کواختیار ہوگا۔ لہذاوکالت نامتحریرکیا تا کہ سندرہے۔ المرقوم:. 11-12-2023 بمقام: Affected ccepted

وقاص نو نوسٹیٹ کچہری(ایبٹ آباد)