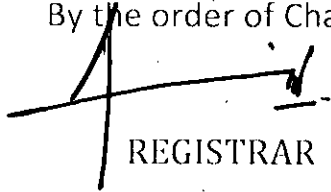


Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 105/2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.01.2024	<p>The application for restoration of 12(2) Petition no. 221/2023 submitted today by Mr. Muhammad Asif Yousafzai Advocate. It is fixed for hearing before Division Bench at Peshawar on _____. Original file be requisitioned. Parcha Peshi is given to counsel for the applicant.</p> <p>By the order of Chairman  REGISTRAR</p>

65her

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

CM. NO. 124
R. A. NO. 105/2024ⁱⁿ
(124) 221/23/24

IN

Service Appeal No. 148/2019

Babar Hayat

VS

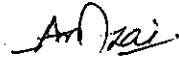
Ihsanullah and others.

INDEX

S.No	Documents	Annexure	Page No.
1.	Memo of Application	-----	01-02
2.	Affidavit	-----	03
3.	Memo of calling promotion	---A1---	04


APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.


(S. NOMAN ALTBUKHARI)
ADVOCATE HIGH COURT.

Room No.FR-08, 4th Floor,
Bilour Plaza Peshawar Cantt:
Cell # 03339103240

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

R.A. No. 105/2024 ^{CM. NO. _____/24}
in
~~(12/2)~~ 221 | 2023

IN

Service Appeal No. 148/2019

Babar Hayat, Sr. Scale Stenographer
Office of the Deputy Commissioner, Swabi.

APPELLANT

VERSUS

1. Ihsanullah, Senior Scale Stenographer (ACB),
O/o Commissioner Office Mardan.
2. Muhammad Ibrahim, Private Secretary (A.C.B),
O/o Commissioner Office Mardan.
3. The Commissioner, Mardan Division Mardan.
4. The Senior Member Board of Revenue, KP, Civil Secretariat,
Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10770

Dated 25/1/24

RESPONDENTS

.....

**APPLICATION FOR RESTRAINING THE
RESPONDENTS FROM PROMOTING THE
RESPONDENTS NO. 01 & 02 ON THE BASIS OF THE
JUDGMENT OF THIS AUGUST TRIBUNAL DATED
14.04.2022 AGAINST WHICH CM UNDER
SEC.12(2)CPC IS ALREADY PENDING**

.....

RESPECTFULLY SHEWETH:


1. That the applicant has filed the above titled petition under section 12(2)CPC against the Judgment dated 14.04.2022 passed in Service Appeal No. 128/2019. The Said CM under section 12(2) CPC has already been noticed to the respondent and has now fixed for 02.02.2024.
2. That the main relief and cause of action of the respondents was altogether different from the relief which is already granted to them (private respondents) in the Judgment of the Tribunal which ultimately affected the SENIORITY of the petitioner without being impleading him in the array of the respondents.

3. That in previous dates of hearing the Honorable Tribunal was kind enough to order to maintain the status quo regarding promotion of petitioner and private respondents but the same order was withdrawn by the Tribunal on 17.01.2024 due to non appearance of the Counsel for the petitioner, who was busy before the Supreme Court of Pakistan Islamabad and that fact was properly intimated to the Tribunal through an application but despite that he adverse order was made and appearance before Supreme Court of Pakistan was not respected at all.
4. That soon after withdrawal of status quo, the respondent department has issued letter for submission of working paper till 26 January, 2024 which shows the malafide of the respondents because they are having the knowledge of pending petition under section 12(2) CPC but despite that trying to affect the rights of petitioner.
5. That if the judgment is acted upon the petition under Section 12(2)CPC will be become infructuous and the same would amount to condemnation and affecting the rights of the petitioner without being heard.
6. That to avoid of the legal complications and unnecessary litigation, it would be in the interest of justice to restrain the respondents from promoting the respondents No. 01 & 02 on the basis of impugned judgment,

It is, therefore, most humbly prayed that the official respondents may be restrained from promoting respondents No. 01 & 02 to the next higher grade on the basis of impugned judgment OR at least maintain the status till the decision petition 12(2) CPC to the extent of private only. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.


APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN.

& 
(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT.

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

CM 110 _____/24
in

~~CM 12(2) CPC 221~~ / 2023

IN

Service Appeal No. 148/2019

Babar Hayat

VS

Ihsanullah and others.

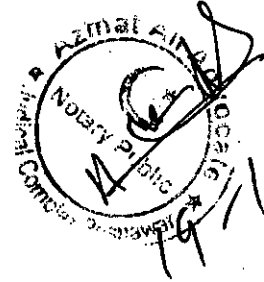
AFFIDAVIT

I, Babar Hayat, Sr. Scale Stenographer Office of the Deputy Commissioner, Swabi Appellant do hereby affirm that the contents of this CM 12(2) CPC are true and correct, and nothing has been concealed from this Honorable Court.

B. Hayat

DEPONENT

ATTESTED



22/4



GOVERNMENT OF KHYBER PAKHTUNKHWA

ESTABLISHMENT DEPARTMENT

No. SO (PSB) ED/1-25/2022/PSB
Dated Peshawar, the January 17, 2024

To

All Administrative Secretaries
to the Govt. of Khyber Pakhtunkhwa.

Subject: - STREAMLINING OF PROVINCIAL SELECTION BOARD (PSB) MEETINGS.

Dear Sir,

I am directed to refer to this Department letter of even No. dated 23.12.2021 on the subject and to say that the PSB meeting is expected to be held in second week of February 2024. The working papers (complete in all respects) for promotion to be placed before the PSB meeting may be furnished well before the cut-off date which is fixed as 26.01.2024. Most importantly, working papers of the officers who are at the verge of retirement and falling in the promotion zone must be forwarded on priority basis.

2. I am further directed to say that no working paper will be received/accepted after the mentioned cut-off date and that the Administrative Department will be held responsible for any delay in submission of working papers and the resultant deprivation of any officer from promotion/consideration.

Yours faithfully,


SECTION OFFICER (PSB) 17/1/24

ENDSL. EVEN NO. & DATE.

copy is forwarded to

1. All Section Officers in Regulation Wing of Establishment Department.
2. PS to Secretary Establishment, Govt. Khyber Pakhtunkhwa
3. PS to Special Secretary Regulation Establishment Department.
4. PAs to Additional Secretaries (Reg-I, & II), Establishment Department.
5. PAs to Deputy Secretaries (Reg-I, II & III), Establishment Department.
6. Section officers (E-I, E-II, E-IV & E-V).


ATTESTED
SECRETARY

SECTION OFFICER (PSB)

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

CM(12)2CPC No. 221 /2023

IN

Service Appeal No. 148/2019

Decided on 14.04.2022



Babar Hayat, Sr. Scale Stenographer
Office of the Deputy Commissioner, Swabi.

PETITIONER

VERSUS

1. Ihsanullah, Senior Scale Stenographer (ACB),
O/o Commissioner Office Mardan.
2. Muhammad Ibrahim, Private Secretary (A.C.B),
O/o Commissioner Office Mardan.
3. The Commissioner, Mardan Division Mardan.
4. The Senior Member Board of Revenue, KP, Civil Secretariat,
Peshawar.

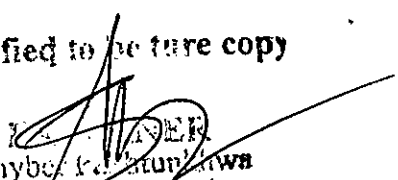
RESPONDENTS.

.....
**PETITION UNDER SECTION 12(2) CPC AGAINST
THE RESPONDENT FOR OBTAINING JUDGMENT
DATED 14.4.2022 IN APPEAL NO. 148/2019 ON THE
BASIS OF MISREPRESENTATION AND FRAUD
AND AFFECTED THE SERVICE RIGHTS OF
PETITIONER IN HIS ABSENCE WITHOUT
IMPLEADING HIM AS RESPONDENT.**

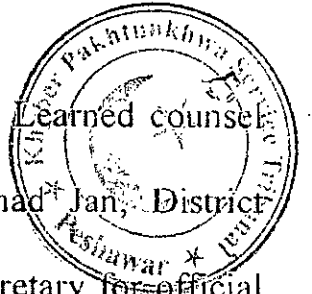
PRAYER:-

**THAT ON ACCEPTANCE OF THIS PETITION THE
JUDGMENT DATED 14.4.2022 PASSED IN SERVICE
APPEAL NO. 148/2019 MAY BE SET-ASIDE UNDER
12(2) CPC BEING OBTAINED ON THE BASIS OF
FRAUD AND MISREPRESENTATION AND
AFFECTED THE SERVICE RIGHTS OF THE
PETITIONER IN HIS ABSENCE AS HE WAS NOT
ARRAYED AS RESPONDENT IN THE SERVICE
APPEAL. ANY OTHER REMEDY DEEMS
APPROPRIATE THAT MAY ALSO BE AWARDED
IN FAVOUR OF PETITIONER.**

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

16th Jan, 2024



1. Junior to counsel for the petitioner present. Learned counsel for private respondent No.1 present. Mr. Muhammad Jan, District Attorney alongwith Mr. Ghulam Shabir, Assistant Secretary for official respondents No.2 & 3 present.

2. Learned counsel for the petitioner was stated to be busy before the Supreme Court of Pakistan, while learned counsel for private respondent submitted that in this matter, promotions are stayed by the Tribunal, therefore, adjournment might not be granted. Junior to counsel for the petitioner requested that the matter might be adjourned for tomorrow, so that it could be argued. To come up for arguments tomorrow i.e. on 17.01.2024 before D.B. In case of failure of arguments by the learned counsel for the petitioner, the stay earlier granted shall be deemed to have been vacated. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

Mutazem Shah

Certified true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

17.01.2024



Petitioner alongwith junior to his counsel present
Learned counsel for private respondent No. 1 present
Mr. Asad Ali Khan, Assistant Advocate General for
respondents No. 3 & 4 present.

Junior to learned counsel for the petitioner submitted
application for adjournment on the ground that learned
counsel for the petitioner is busy in Supreme Court.
Adjourned. To come up for arguments on 02.02.2024 before
the D.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)
Member (E)

(Salah-ud-Din)
Member (J)

Naeem Anin

Certified copy

EX. JINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 25-01-24
Number of Words 37
Copying Fee 15/-
Urgent 5/-
Total 20/-
Name of C 25-01-24
Date of Completion 25-01-24
Date of Delivery of 25-01-24