# FORM OF ORDER SHEET

Court of_	 		 	 11/2

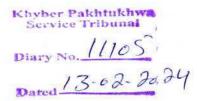
		Restoration Application No. 137/2024
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
ī	13.02.2024	The application for restoration of Service Appeal
		No. 791/2023 submitted today by Mr. Muzzammil Khan
		Mohmand Advocate. It is fixed for hearing before
1		Single Bench at Peshawar on 19-02-24 .Original file be
		requisitioned. Parcha Peshi is given to counsel for the
		applicant.
	·	By the order of Chairman
		REGISTRAR
	1	

## BEFORE THE HONOURABLE KEYBER PAKHTUNKHWA SERVICE

## TRIBUNALAT PESHAWAR

R.A. No. 137/2024

In ref: of Service Appeal No. 791/2023



Muhammad Rehman, Clinical Technician Pathology (BPS-12) Cat: D Hospital Akora Khattak, District Nowshera

..... Applicant/ Appellant

#### Versus

- 1. The Director General Health Services Khyber Pakhtunkhwa Peshawar
- 2. The District Health Officer, District Nowshera
- 3. The District Accounts Officer, Nowshera

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APPLICATION FOR RESTORATION OF THE MAIN APPEAL FOR INITIATING OF THE PROCEDURAL PRESCRIBED PROCEEDINGS, TO DETERMINE THE LEGAL LIABILITY TO THE EXTENT OF THE MANDATORY RESPONDENT NO. 3.

## **Respectfully Sheweth:**

Applicant/ appellant submits as under:

- 1. It is notable in this very preliminary para of Misc. Application in hand that the above main appeal was disposed of by this Hon'ble Tribunal on the basis of mutual understanding of the applicant/ appellant and respondents No.1 & 2, which pertains to the release of salaries of the applicant/ appellant "the matter originally retained under agitation" vide order dated 27.09.2023. (Copy of the disposal order of this Hon'ble Tribunal is Annexure A).
- 2. No doubt the respondent No. 3 was also duly arrayed as mandatory respondent in the main appeal, to the extent of which matter of release of salaries of the applicant/ appellant, on the recommendation of the

respondents No. 1 & 2 was questioned on behalf of the applicant/ appellant.

- 3. Since, the original matter of recommendation of the issuance of salaries of applicant/ appellant when resolved mutually during the pendency of the main appeal, it was realized on behalf of the applicant/ appellant that the matter has comprehensively dissolved once for all but when on the recommendation of the respondents No. 1& 2 regarding release of the monthly salaries alongwith arrears of the applicant/ appellant was led by the applicant/ appellant to respondent No. 3, applicant/ appellant remained fruitless having unsuccessful feelings.
- 4. It is further important to note herein to invite worth consideration of this Hon'ble Tribunal that applicant/ appellant cannot present any further separate case against the legal liability of the respondent No. 3 but in this case, if restored, the same can be set, to resolve the once for all grievance of the applicant/appellant.

It is, therefore, respectfully prayed that in light of the above submissions, the main appeal of the applicant/ appellant may very kindly be restored to the extent to set the legal liabilities of respondent No. 3 and to resolve the issue of release of the recommended salaries along with arrears of the applicant appellant. Men/som

Applicant/ Appellant

Through

Muzzammil Khan Mohmand

Advocate High Court, Peshawar

Dated 12.02.2024

AFFIDAVIT:

Stated on Oath that the contents of the diagram application are true and correct to the best of my knowledge and belief and apthing has been concealed from this Hon'ble Tribunal.

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## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO.

Mr. Muhammad Rehman, Clinical Technician Pathology (BPS-12), Cat. D Hospital Akora Khattak, District Nowshera.

### **VERSUS**

- 1- The Director General Health Services Khyber Pakhtunkhwa Peshawar.
- 2- The District Health Officer, District Nowshera.
- 3- The District Accounts Officer, Nowshera.

.....RESPONDENTS

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT RELEASING THE MONTHLY SALARIES OF THE APPELLANT W-E-F DECEMBER 2022 AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF NINETY DAYS.

#### PRAYER:

That on acceptance of this appeal the impugned inaction of the respondents may please be set aside and the respondents may please be directed to release the monthly salaries of the appellant w-e-f December, 2022 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

### R/SHEWETH: ON FACTS:

## Brief facts giving rise to the present appeal are as under:

- 1- That the Petitioner was initially appointed as Clinical Technician (Pathology) BPS-12 through Departmental Selection Committee at D.H.O office Nowshera vide ORDER dated: 04-03-2022 vide Office Order No.1573-77/NSR. Copy of appointment order is attached as
- 2- That the appellant was examined by the concerned medical officer and was found fit and awarded fitness certificate. That the Petitioner submitted his arrival report as Clinical Technician (M.P) in D.H.O office Nowshera on 06.03.2022. That the service nook of the Certified to be ture cappellant was also prepared accordingly. Copies of the medical certificate and arrival report are attached as

Sept. 2023 The gravame of the spellant had

Apkel No. 791/2018 Muhermmerel Rehman is 90

Learned counsel for the appellant present. Mr 01. Fazal Shah Mohmand, Additional Advocate General alongwith Zaheer Abbas IT Officer for the respondent No. 3 and Dr Muhammad Usman for respondent No. 2 present.

Learned counsel for the appellant stated that his grievances has been redressed departmentally. Representative Dr Muhammad Usman produce the statement on behalf of respondent No 2, the DHO Nowshera, who has no objection regarding restarting the salary of Muhammad Rehman. He further assured that all the arrears from November 2022 also be paid to the petitioner. On his assurance learned counsel for the appellant doesn't want to peruse the case. He wants to with draw the appeal and his signature obtained in the margin of order sheet. Disposed off accordingly. Consign.

Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal 27th day of September 2023.

(FAREEHA PAUL) Member (E)

Certified to

Name of Cop

\*Abdullah