


Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 137/2024

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

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL AT PESHAWAR**

R.A. No. 137/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11105

Dated 13-02-2024

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

..... Respondents

**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/ appellants.

3. Since, the original matter of recommendation of the issuance of salaries of applicant/ appellants when resolved mutually during the pendency of the main appeal, it was realized on behalf of the applicant/ appellants 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/ appellants was led by the applicant/ appellants to respondent No. 3, applicant/ appellants remained fruitless having unsuccessful feelings.
4. It is further important to note herein to invite worth consideration of this Hon'ble Tribunal that applicant/ appellants 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/ appellants.

It is, therefore, respectfully prayed that in light of the above submissions, the main appeal of the applicant/ appellants 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 alongwith arrears of the applicant/ appellants.

applicant/ Appellant

Through

Muzzammil Khan Mohmand

Advocate High Court, Peshawar

12/02/2024

Dated 12.02.2024

AFFIDAVIT:

Stated on Oath that the contents of the above application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



12-2-24

Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



APPEAL NO. 791 /2023

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

.....**APPELLANT**

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 annexure**A.**
- 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 appellant was also prepared accordingly. Copies of the medical certificate and arrival report are attached as annexure**B&C.**

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



Appeal No. 791/2023
Muhammad Rehman vs Govt

27th Sept. 2023

The grievance of the appellant had been redressed under statement of the DHO, hence no need to peruse the appeal. may kindly be disposed off accordingly.
Kamran Rehman

01. Learned counsel for the appellant present. Mr 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.

02. Learned counsel for the appellant stated that his grievance has been redressed departmentally. Representative Dr Muhammad Usman produced 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 ~~was~~ ^{world} also be paid to the petitioner. On his assurance learned counsel for the appellant doesn't want to peruse the case. He wants to withdraw the appeal and his signature obtained in the margin of order sheet. Disposed off accordingly. Consign.

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

(FARBEHA PAUL)
Member (E)

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Abdullah

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