


Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 146 /2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	16.02.2024	<p>The application for restoration of Service Appeal No. 7281/2021 submitted today by Mr. Farhan Tariq Advocate. It is fixed for hearing before Single 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>

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

R.A. No. 146/2024

Sadiq Shah S/o Khanawada

..... Appellant

Versus

4. Government Of Khyber PakhtunKhwa through Secretary Civil Secretariat, Peshawar
5. District Education Officer Mohmand Tribal District
6. Directorate of Elementary and Secondary Education KPK

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Application for restoration		1-2
2.	Copy of the Order Dated 27.09.2023		3-6
3.	Affidavit		6A
4.	Application for condonation of Delay		7-8

Through

Applicants/Petitioners

Farhan Tariq

Advocate, High Court.

Dated: 15.02.2024

PJ-1

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

R. A 146/2024 in Appeal No 7281/21

Sadiq Shah S/o Khanawada

R/o Village Haleemzai Tehsil Ekka Ghund

District Mohmand

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11172

Dated 16-02-2024

..... Appellant

Versus

1. Government Of Khyber PakhtunKhwa through Secretary Civil Secretariat, Peshawar
2. District Education Officer Mohmand Tribal District
3. Directorate of Elementary and Secondary Education KPK

..... Respondents

Application for/ on behalf of applicant/appellant for restoration of captioned appeal which was dismissed in default vide Order dated 27.09.2023

RESPECTFULLY SHEWETH.

That the appellant most humbly submits.

ON FACTS

1. That the titled appeal was decided/ dismissed in default by the Hon'ble Tribunal vide Order dated 27.09.2023 due to absence of the appellant and his counsel
(Copy of the order is attached as annexure A)
2. That on the date of hearing i.e 27.09.2023 the appellant along with his counsel appeared before the Tribunal whereby they were informed that the bench is not functional and therefore the date of hearing is adjourned. The next date of hearing which was given to appellant and his counsel was 24.01.2024
(Copy of the affidavit of the counsel regarding the date of hearing is attached as annexure B)

- 3. That on 24.01.2024 when the counsel of the appellant along with appellant appeared before the Tribunal it transpired that the case has been dismissed in default on the previous date i.e 27.09.2023
- 4. That the absence of the appellant was not intentional and therefore seeks restoration of the instant appeal on the following grounds amongst others

Grounds

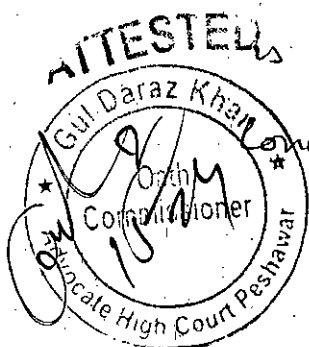
- 1. That the decision date 27.09.2023 is bad in law and facts both.
- 2. That absence of the appellant and his counsel was not deliberate but due to the fact that the wrong date was given to the appellant and his counsel.
- 3. That the application in hand is well within time as the appellant and his counsel got the knowledge of said dismissal on 24.01.2024
- 4. That the appellant and his counsel are ready to take oath on the facts mentioned above
- 5. That valuable rights of the appellant are involved in the instant appeal and the appellant would suffer irreparable loss in case of refusal/dismissal of the instant application
- 6. That it is trite law that the law favors adjudication on merits rather than on technicalities

IT IS THEREFORE MOST HUMBLY PRAYED THAT THE INSTANT APPEAL MAY KINDLY BE ACCEPTED AND THE TITLED CASE MAY KINDLY BE RESTORED

APPELLANT
am/14 THROUGH
FARHAN TARIQ

Affidavit

As per instruction of my client, I Farhan Tariq Advocate do hereby solemnly affirm and declare on oath that the contents of this application is true and correct and nothing has been concealed from this Hon'ble Court.



am/14
Advocate.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

ST Appeal No. 7281 /2021

Sadiq Shah S/o Khanawada
R/o Village Haleemzai Tehsil Ekka Ghund
District Mohmand.



.....APPELLANT

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary *civil secretariat, Peshawar*
2. District Education Officer Mohmand Tribal District. *Distric mohmand*
3. Directorate of Elementary and Secondary Education Khyber Pakhtun Khwa Peshawar.

.....RESPONDENTS

Appeal under Services Tribunal Act 1974 against the Order of District Education Officer Mohmand tribal District Dated 25-03-2021 whereby the appellant's appointment Order was withdrawn/ appellant was terminated from services on baseless allegations and neither giving him opportunity to defend himself nor associating him in any inquiry.

PRAYER

On acceptance of this appeal this Hon'ble Court may be pleased to set aside termination Order dated 25-03-2021 and termination Order may be declared illegal and against law having no binding force on the rights of the Appellant.

Respectfully Sheweth:

1. That the appellant besides being a law abiding peaceful citizen of the Country is/ was also a responsible Government Servant. He holds an unblemished service record and has never been charged or indicated for any misconduct/ offence whatsoever. The appellant prior to the illegal termination/ removal from service vide Order dated 25-03-2021 was serving as Theology teacher/ TT at the Government Primary School Said Shah Kor District Mohmand. Copy of the appointment letter dated 17-11-2020 is enclosed as annexure "A".
2. That before assuming charge at the office/ school the appellant as per rules and directions of the superiors submitted all his educational record and also deposited the required fee for verification of documents. Needless to mention here that the appellant was/ is entitled for the post and all the requisite documents/ educational documents were submitted for verification to the office of the respondents. Copy of the educational documents and verification fee receipts are attached and marked as Annexure "B" and "C".

Certified to be true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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3. That the appellant after the verification of documents and fulfillment of codal formalities joined his services on 17-11-2020. Copy of the arrival report is attached and marked as Annexure "D".
4. That from day one of the initial appointment, the appellant performed his duties with full devotion/ dedication and upto the entire satisfaction of his Superiors. During his service career there has not been a single complaint against the appellant which clearly shows that the appellant maintained unblemished service record and enjoyed very good reputation amongst his colleagues and students. Needless to mention here that the appellant was awarded salary which he received monthly. Copy of the salary slips are attached and marked as Annexure "E".
5. That the appellant throughout his career never remained absent from his duty rather performed his duty with full devotion and dedication. The attendance register of Government Primary School Said Shah Kor District Mohmand confirms that the appellant had regularly attended office/ school during his service period. Copy of the attendance register is attached and marked as Annexure "F".
6. That the appellant as routine reached school to perform his duty and to take his classes when he informed by one of his colleague that he has been terminated from duty. Appellant rushed to the office of principal/ head master and was shocked to see his termination Order dated 25-03-2021. The appellant was further shocked to see the allegations of submitting fake and forged documents for getting the job which are/ were not only baseless but very insulting in nature as well. Copy of the termination Order dated 25-03-2021 is attached and marked as annexure "G".
7. That the appellant was informed that the decision of termination has been taken by the respondents after conducting inquiry but surprisingly the appellant was never informed about the inquiry so conducted and also had never been given opportunity to defend himself before the competent forum.

It was further very astonishing to note that the other person namely Ajmali Khan who was appointed as theology teacher in place of the present appellant took charge on the 24th March 2021 while the so called termination Order was/ is issued on 25th March 2021 which clearly shows the malafide intention of the respondents. Copy of the appointment letter dated 24-04-2021 is attached and marked as Annexure "H".

8. That the matric certificate and all other educational documents produced/ submitted by the appellant are/ were genuine and the allegation that the same is fake is not only baseless but also embarrassing. Needless to mention here that the appellant got the job on merits and nothing had been kept secret from the concerned authorities at all. The appellant submitted genuine documents and after complete verification the appointment letter was issued in favour of the appellant. Copy of the so called fake document is attached and marked as Annexure "I".

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

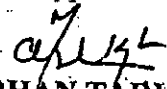
- B 5
9. That the appellant thus dismayed immediately filed departmental appeal before the Director District Education Officer Mohmand Tribal District on 02-04-2021 but till today no Order on the appeal has been passed. Copy of departmental appeal and TCS receipts are attached and marked as Annexure "J" & "K".
 10. That the appellant feeling aggrieved of his termination Order knocks the door of this Hon'ble Court to challenge his termination on the following grounds amongst others.

GROUNDS

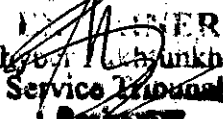
1. That the termination of the appellant dated 25-03-2021 is bad in law and facts both being in violation of golden principles of natural justice.
2. That neither any charge sheet was served upon the appellant nor was he associated with any inquiry hence, the termination is based on illegal/ exparte inquiry and is liable to be set aside.
3. That the appellant before taking charge deposited fee for verification of all the documents submitted by him before the competent forum and the respondents after complete verification allowed the appellant to take charge as theology teacher. Needless to mention here that all the documents produced and submitted before the respondents/ competent forum are genuine and no illegality has been made by the appellant at all.
4. That the inquiry committee has decided the matter without informing the appellant and without giving any notice of hearing or defending himself which makes the inquiry one sided and biased in nature.
5. That as the letter dated 25-03-2021 is wrong having no binding force on the rights of the appellant which needs to be reversed and appellant being eligible be restored on his duties.
6. That no law approves any action which amounts to condemning the appellant unheard.
7. That other grounds will be raised at the time of arguments with the permission of the Hon'ble Tribunal.

It is, therefore, graciously prayed that on acceptance of this appeal the Order dated 25-03-2021 may be set aside and the appellant be restored on his duty with all the back benefits.

Any other relief not specifically asked for but this Hon'ble Tribunal deems appropriate is also prayed for.

Appellant
Through 
FARHAN TARIQ
Advocate, Peshawar

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MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

A. No. 7281/2021
Sadir Shah vs Govt

(6)


27th Sep, 2023



1. Nemo for appellant. Mr. Muhammad Jan, District Attorney for the respondents present.

2. The appeal in hand was called on for hearing after various intervals, however, neither the appellant nor anyone else appeared on his behalf till the closing time, therefore, the appeal in hand stands dismissed in default. Consign.

3. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal, ^{on} this 27th day of September, 2023.


(Muhammad Akbar Khan)
Member (E)

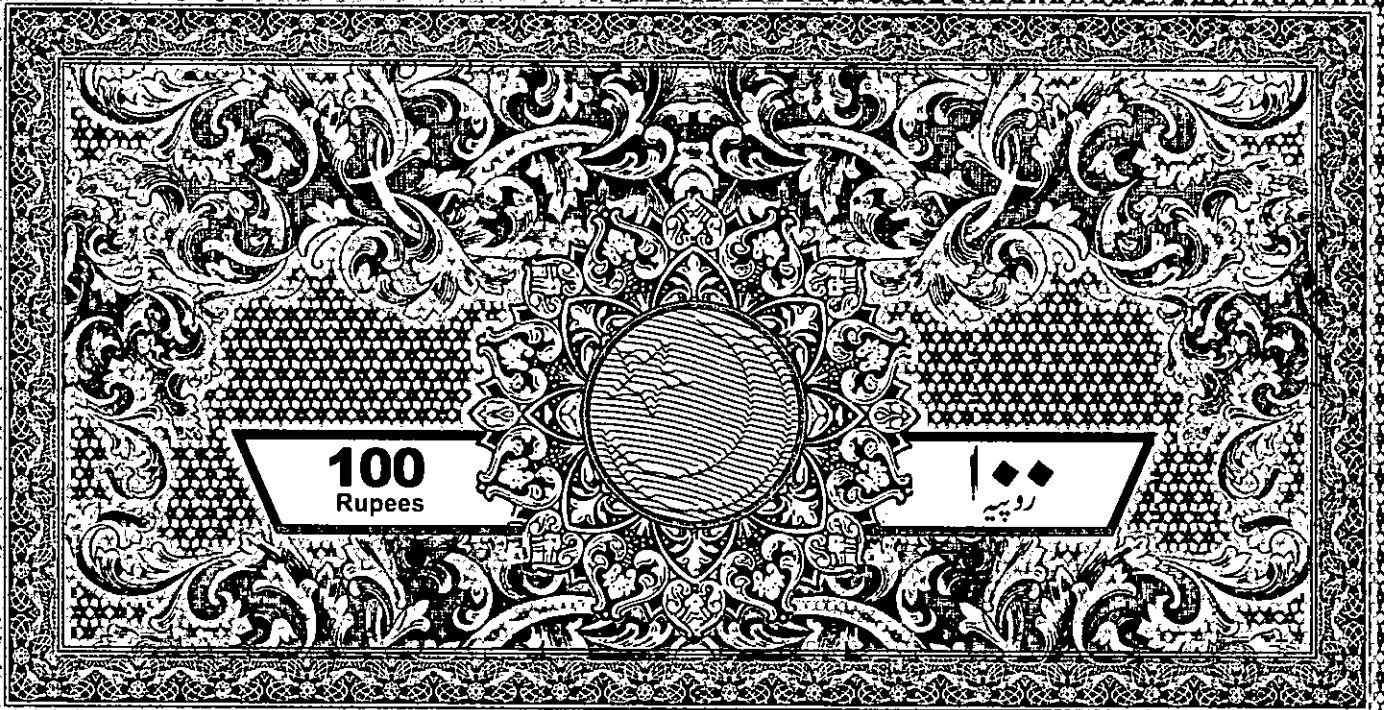

(Rashida Bano)
Member (J)

Kamranullah

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KAMRANULLAH
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 15-02-2024
Number of Words Page 4
Copying Fee 20/-
Urgent 5/-
Total 25/-
Name of Copyist Shahidul
Date of Completion of Copy 15-02-2024
Date of Delivery of Copy 15-02-2024



Affidavit

I, Farhan Tariq, Advocate, stated on oath that the undersigned / counsel for appellant on that of hearing i.e. 27.09.2023 appeared before the tribunal & was informed that the date of hearing is adjourned to 24.01.2024 as the bench is not functional. On 24.01.2024 when the undersigned reached the tribunal for arguments it transpired that the case/appeal has been decided / dismissed in default on 27.09.2023.

M. Daraz Khan
Counsel
Farhan Tariq
Advocate



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BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Sadiq Shah S/o Khanawada

R/o Village Haleemzai Tehsil EkkaGhund

District Mohmand

..... Appellant

Versus

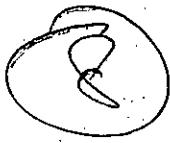
- 1. Government Of Khyber PakhtunKwha through Secretary Civil Secretariat,
Peshawar**
- 2. District Education Officer Mohmand Tribal District**
- 3. Directorate of Elementary and Secondary Education KPK**

..... Respondents

**Application for/ on behalf of applicant/appellant condonation of delay (if any) in
filing the restoration application before the Hon'ble service Tribunal.**

Respectfully Sheweth,

- 1. That the titled appeal was decided/ dismissed in default by the Hon'ble
Tribunal vide Order dated 27.09.2023 due to absence of the appellant and his
counsel**
- 2. That on the date of hearing i.e 27.09.2023 the appellant along with his counsel
appeared before the Tribunal whereby they were informed that the bench is
not functional and therefore the date of hearing is adjourned. The next date of
hearing which was given to appellant and his counsel was 24.01.2024**
- 3. That on 24.01.2024 when the counsel of the appellant along with appellant
appeared before the Tribunal it transpired that the case has been dismissed in
default on the previous date i.e 27.09.2023 hence the instant application.**



PRAYER

**IT IS THEREFORE MOST HUMBLY PRAYED THAT THIS HON'BLE TRIBUNAL
MAY PLEASE CONDONE THE DELAY IN FILING THE PRESENT
RESTORATION.**

THROUGH

**M FARHAN TARIQ
ADVOCATE HIGH COURT**