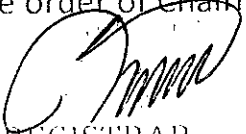


Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 130 /2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2 07.02.2024	3 The application for restoration of Service Appeal No. 7527/2021 received today by registered post through Mr. Muhammad Anwar Awan Advocate. It is fixed for hearing before touring Single Bench at D.I.Khan on _____. Original file be requisitioned. By the order of Chairman  REGISTRAR

BEFORE KP SERVICE TRIBUNAL PESHAWAR CAMP AT D.I.KHAN

Restoration Application ...¹³⁰... of 2024 in

Service Appeal No- ⁷⁵²⁷ /2021.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11044

Dated 07-02-2024

Imdad Hussain S/O Ghulam Abid PST GPS SamokheWali R/O Samokhe Wali
Parova D.I.Khan.

VERSUS

1. Govt; Of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
2. Secretary, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
4. Assistant Director (Estb;) Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
5. District Education Officer Male D.I.Khan.
6. Aqal Khan GPS No 1 Rehmankehel District D.I.Khan.
7. Zia Ur Rehman GPS No 1 Rehmankehel District D.I.Khan.
8. Hizbullah Khan GPS No 1 Takwara District D.I.Khan.
9. Muhib Hussain Shah GPS No.2.Dhallah District D.I.Khan.
10. AsadHussain Shah GPS Wanda Talgi District .D.I.Khan.
11. AbdurRauf Khan GPS KotMasoodan District .D.I.Khan.
12. Muhammad Zaffar GPS MandhranSaidanDistrict .D.I.Khan.

SERVICE APPEAL No- ⁷⁵²⁷ of 2021

APPLICATION FOR RESTORATION OF APPEAL No- ⁷⁵²⁷ of 2021

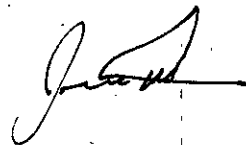
Respectfully Sheweth,

1. That appeal is pending adjudication before this honorable court on 18-01-2023 which was dismissed due non-appearance of appellant. Copy of Application and Order are Annexed.

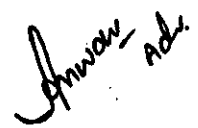
2. That appellant and his counsel attended the court at D.I.Khan on 25-1-2022 and case was adjourned for 22-11-2022 along with connected service appeals. On the date fixed, the tour of Camp court D.I.Khan has been cancelled so appellant has no knowledge of next date of hearing and appellant is waiting for fixation of next date. The appellant after some time inquired from the court staff at D.I.Khan about date of Service appeal and got knowledge on 16-01-2024 that appeals are dismissed in default on 18-01-2023, so on attaining knowledge, the appellant applied for attested copies of the order and filed this petition within time on 30-01-2024. The appellant has no knowledge of the appeal after the cancellation of tour of Hon'ble court so absence is not willful rather appellant is not in knowledge of fixation of appeal on 18-01-2023. Copy of Order is Annexed.
3. That the sum of the connected cases along with petitioner appeal are restored by this Honorable court and main appeal of that appellants are pending adjudication before this Honorable court so equity demands that being a similar point of law the petitioner appeal may kindly be restored and decided along with appeal No pending on .
4. That this honorable court has vast power to accept the instant application.

It is therefore prayed that the application may kindly be accepted.

YOUR HUMBLE APPLICANT



Imdad Hussain



Mohammad Anwar Awan

Advocate Supreme Court.

BEFORE KP SERVICE TRIBUNAL PESHAWAR CAMP AT D.I.KHAN

Restoration Application of 2024 In
7527
Service Appeal No- /2021.

Ihmdad Hussain

Vs

Govt Of KP & Others

APPEAL

APPLICATION FOR CONDONATION OF DELAY

Respected Sir:

1. That the restoration petition is pending before this Honorable Court.
2. That On the date fixed i.e 22-11-2021 the tour of Camp court D.I.Khan has been cancelled so appellant has no knowledge of next date of hearing and appellant is waiting for notice for fixation of next date. The appellant after some time inquired from the court staff at D.I.Khan about date of Service appeal and got knowledge on 16-01-2024 that appeals are dismissed in default on 18-01-2023, so on attaining knowledge, the appellant applied for attested copies of the order and filed this petition within time. The appellant has no knowledge of the appeal after the cancellation of tour of Hon'ble court so absence is not willful rather appellant is not in knowledge of fixation of appeal on 18-01-2023.
3. That this Honorable court has ample power to allow the application.

It is therefore prayed that the application may kindly be accepted.

YOUR HUMBLE APPLICANT



ImdadHussain



Mohammad Anwar Awan

Advocate Supreme Court.

BEFORE KP SERVICE TRIBUNAL PESHAWAR CAMP AT D.I.KHAN

Restoration Application of 2024

In

Service Appeal No- ⁷⁵²⁷ /2021.

Imdad Hussain

Vs

Govt Of KP & Others

Restoration Of Appeal

AFFIDAVIT

Imdad Hussain S/O Ghulam Abid PST GPS Samokhe Wali R/O Samokhe Wali Parova D.I.Khan.that contents of application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.


DEPONENT

Dated;





-5-

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP AT D.I.KHAN**

Service Appeal No 7527 /2021

IMDAD HUSSAIN PST GPS SMOKHY WALI. U/c PAROON
s/o Ghulam Qasim, R/o Smokhy wali Tehsil Paroona
(Appellant)

Khyber Pakhtunkhwa
Service Tribunal

Duty No. 7527

Dated 15/1/2021

VERSUS

1. GOVERNMENT OF KHYBER PAKHTUNKHAWA THROUGH CHIEF SECRETARY, CIVIL SECRETARIAT, PESHAWAR
2. THE SECRETARY ELEMENTARY & SECONDARY EDUCATION, KHYBER PAKHTUNKHAWA, PESHAWAR.
3. DIRECTOR ELEMENTARY & SECONDARY EDUCATION, KHYBER PAKHTUNKHAWA, PESHAWAR.
4. ASSISTANT DIRECTOR (Estb:) ELEMENTARY & SECONDARY EDUCATION, KHYBER PAKHTUNKHAWA, PESHAWAR.
5. DISTRICT EDUCATION OFFICER (DEO) MALE, D.I.KHAN.

6. AQAL KHAN GPS NO.1 REHMANIKHEL DISTT: D.I.KHAN
7. ZIA UR REHMAN GPS NO.1 REHMANIKHEL DISTT: D.I.KHAN
8. HIZBULLAH KHAN GPS NO.1 TAKWARA DISTT: D.I.KHAN
9. MUHIB HUSSAIN SHAH GPS NO. 2 DHALLAH DISTT: D.I.KHAN
10. ASSAD HUSSAIN SHAH GPS WANDA TALGI DISTT: D.I.KHAN
11. ABDUR RAUF KHAN GPS KOT MASOODAN DISTT: D.I.KHAN
12. MUHAMMAD ZAFFAR GPS MANDHRA SAIDAN DISTT: D.I.KHAN

Anwar
M. ANWAR ANWAR
ATTORNEY AT LAW
D.I.KHAN

ATTESTED

[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Anwar
Filed to-day

Registrar

6


SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 TO DIRECT THE RESPONDANTS TO REVISE/CORRECT THE SENIORITY LIST ISSUED BY THE OFFICIAL RESPONDENTS AS PER DATE OF INITIAL APPOINTMENT AND PROMOTE THE APPELLANT AS PER THEIR SENIORITY ALONGWITH BACK AND FUTURE BENEFITS.

Respectfully Sheweth,

1. That Appellant is appointed as Primary School teacher through NTS on 17-05-2014 while Respondent No 11 to 17 are appointed as PST vide order Dated; 05-12-2014 on contract basis. Copy of Appointment Orders are Annexure A.
2. That the Appellant is Qualified PST and after his appointment, has been serving the Department with due diligence, utmost care and devotion, always tried to his best, and has spotless service record. The Appellant and other were regularized on 10-03-2018. Copy of Order Dated; 10-03-2018 is Annexure B.
3. That on 04-06-2020, the concern District Education Officer vide Letter No. 11728 has sought guidance for preparing of seniority List of PSTs, the mechanism was provided by the Assistant Director (Estab;) Elementary and secondary Education Department Khyber Pakhtunkhwa (Respondent No. 04) then a Seniority list was prepared by Respondents. Copies of Office order Dated; 04-06-2020 and Office order Dated; 24-06-2020 and seniority list are Annexure C, D & E.
4. That on attaining knowledge on 20-03-2021, the appellant along with others has preferred departmental Applications/ Appeal through proper channel and being senior employee sought his promotion on the basis of his seniority with effect from their initial appointment Dated; 17-05-2014. Copies of appellant Departmental application/Appeal is Annexure F.
8. That feeling aggrieved from above said action appellants are constrained to approaches this honorable court on the following amongst other:

GROUND:

1. That the action of respondents is against facts and law, ultra vires, without

ATTESTED

ENANESHTAR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- 3 - 70

Jurisdiction and against the Khyber Pakhtunkhwa Employees of Elementary and Secondary Education Department (Appointment and Regulation of Services) Act 2017 as well as Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989.

2. That as per rules framed by the government of KPK and also Regularization Act 2017, it is clearly mentioned that seniority of teachers would be reckoned from Section 4 of ibid Act but respondents without any lawful authority issued seniority list on its whims and wishes.
3. That as per appointment Order of petitioner issued on 17.05.2014, he was appointed in teaching cadre on terms and conditions mentioned in the Order from the date of their taking over charge but surprisingly the private respondents who were appointed on 05.12.2014, are placed senior to the petitioner on the basis of their marks which is totally against the policy and terms and conditions mentioned in the appointment order.
4. That while regularizing the petitioner and others Primary School Teachers vide Order dated: 10.03.2018 it was termed that their seniority shall be determined on the basis of their continuous service in cadre so appellant has took the charge of the post in May 2014 while private respondents took the charge in the month of December 2014 so appellant by efflux of time is senior to the private respondents.
5. That it is also evident from the regularization order dated: 10.03.2018, the PSTs appointed on 17.05.2014 are mentioned firstly and thereafter PSTs appointed on 05.12.2014 are mentioned in ibid Order which clearly reflect that the department has issued seniority of all PSTs appointed through the above-said orders.

In wake of above submissions, it is respectfully prayed that on acceptance of instant appeal, the seniority list may please be set aside/modified being illegal, void and against the Khyber Pakhtunkhwa Employees of Elementary and Secondary Education Department (Appointment and Regulation of Services) Act 2017 as well as Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989 and appellant may graciously be promoted from BPS-12 to BPS- 14 with all back/ future benefit.

ATTESTED
EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

4-8-

OR

If any other efficacious relief which this august Tribunal may deem proper/appropriate in the interest of justice may also be granted to the Appellant.

YOUR HUMBLE APPELLANT

DATED: /06/2021

IMDAD HUSSAIN
(Through Counsels)

SANA ULLAH SHAMIM GANDAPUR
Advocate supreme Court
of Pakistan D.I.Khan.

KANEEZ BATOOL
Advocate High Court D.I.Khan

AFFIDAVITE

I, **IMDAD HUSSAIN PST GPS SMOKHY WALI**. The Appellant, do hereby solemnly affirm and declare on oath that all the contents of the Appeal are true and correct to the best of my knowledge and belief and noting has been deliberately concealed from this Honorable Court.

Deponent

Identified by Counsel;

SANA ULLAH SHAMIM GANDAPUR
Advocate supreme Court
of Pakistan D.I.Khan.

Rw
Ade

Certificate:-

It is certified that no appeal is pending on same subject matter no it was decided by Hon'ble Tribunal.

Anwar
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ATTESTED

EXAMINER
Shy/or P. Khattak
Derya
Peshawar

22.11.2022

Tour to camp court D.I.Khan has been canceled therefore, to come up for the same on 18.01.2023.

READER

18.01.2023

Nemo for the appellant. Mr. Muhammad Riaz Khan, Painsdakhel, Assistant Advocate General for the respondents present.

02. Case called several times till last hours of the court but nobody turned up on behalf of the appellant, therefore, the appeal in hand is dismissed in default as well as for non-compliance of the court order.

Consign.

03. Pronounced in open court at camp court D.I Khan and given under my hand and seal of the Tribunal this 18th of January 2023.

Certificate to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(Kalim Arshad Khan)
Chairman
Camp Court, D.I Khan

Date of Presentation of Application 07-02-24

Number of Words 5 page

Copying Fee 25/-

Urgent

Total 25/-

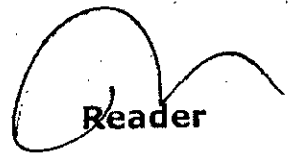
Name of Copyist Shafiq

Date of Completion 07-02-24

Date of Delivery of Copy 07-02-24

28.07.2022

Due to summer vacations, the case is adjourned to 29.09.2022 for the same as before.



Reader

29.09.2022

Learned counsel for the appellant present. Mr. Muhammad Kamran, ADEO alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents present. None present on behalf of private respondents No. 6 to 12.

Comments on behalf of official respondents submitted, copy of which handed over to learned counsel for the appellant.

Previous date was changed on Reader Note, therefore, notices be issued to private respondents No. 6 to 12 for submission of reply/comments through registered post. Adjourned. To come up for submission of reply/comments on behalf of private respondents No. 6 to 12 on 25.10.2022 before the S.B at Camp Court D.I.Khan.


(Salah-Ud-Din)
Member (J)
Camp Court D.I.Khan


25.10.2022

Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General alongwith Muhammad Kamran ADEO for official respondents present. None present on behalf of private respondents No.6 to 12.

File to come up alongwith connected Service Appeal No.7509/2021 titled "Sohail Ahmad Shah Vs. Government of Khyber Pakhtunkhwa" on 22.11.2022 before S.B at Camp Court, D.I.Khan.

SCANNED
KPST
Peshawar


(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan