


Form-A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Restoration Application No. 308/2024**

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	24.04.2024	<p>The application for restoration of Appeal No. 1413/2023 received today by registered post through Mr. Khalid Mahmood Advocate. It is fixed for hearing before Single Bench at D.I.Khan on .Original file be requisitioned. Counsel for the appellant has been informed telephonically.</p> <p style="text-align: right;">By the order of Chairman  <b>REGISTRAR</b></p>

1

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.**


R. A. No. 308/2024  
Civil Misc. Application No. \_\_\_\_\_ of 2024

**Sheikh Uzair Ali Vs. Govt. of Khyber Pakhtunkhwa etc  
RESTORATION APPLICATION**

**Index:**

S#	Description of Documents	Annexure	Page Numbers
1.	Restoration application with condonation of delay	-	1 - 6
2.	Copy of service appeal	A	7 - 14
3.	Copy of order dated 22.11.2024	B	15 - 16
4.	Vakalatnama	-	17

Yours Humble Petitioner

  
(Sheikh Uzair Ali)  
Through Counsel

Dt. 22.04.2024

  
AHMAD ALI  
Advocate Supreme Court

  
KHALID MAHMOOD  
Advocate High Court, D.I.Khan.

2

2  
1

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.**

R.  
Civil Misc. Application No. 308 of 2024

In Service Appeal No. 1413/2023

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 12372

Dated 24/4/24

**Sheikh Uzair Ali** son of Muhammad Alamgir, residing near Margala Marriage Hall, Opposite Awan Chowk, D.I.Khan.

**PETITIONER**

**VERSUS**

1. **Govt. of Khyber Pakhtunkhwa**, through Secretary Labour Department, Khyber Pakhtunkhwa, Peshawar.
2. **Secretary** to Govt. of Khyber Pakhtunkhwa Labour Department, Peshawar.
3. **Presiding Officer**, Labour Court, D.I.Khan.

**RESPONDENTS**

**APPLICATION FOR RESTORATION OF  
THE SERVICE APPEAL.**

**Respectfully Sheweth,**

1. That the above titled service appeal was fixed before this Honourable Tribunal for 22.11.2023 and on the said date the learned counsel for petitioner was busy before the august Supreme Court of Pakistan, and the junior counsel was also busy before the worthy Peshawar High Court, whereas, the petitioner in relation with earning his livelihood has been living in Karachi. Therefore, attendance could not be made before this Honourable Tribunal on the date fixed.

2. That the petitioner and his both the counsel remained unaware of the dismissal of service appeal on the date fixed as no notice, prior to such dismissal, was served upon the petitioner or his counsel.
3. That, thereafter, the learned counsel for petitioner contacted the office of this Honourable Tribunal to get acquainted with the next date of hearing in the service appeal but it was told to him that the service appeal has already been dismissed for non-compliance vide order dated 22.11.2023. Hence, attested copy of the order was immediately applied and after getting the same, instant application is being preferred before this Honourable Tribunal. Copies of the service appeal and order dated 22.11.2023 are enclosed as **Annexure A & B** respectively.
4. That as the petitioner was not present on the date fixed, therefore, appeal was required to be dealt with in accordance with Rule 19(1) of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974; and therefore, the service appeal is liable to be restored under Rule 19(3) of the ibid Rules.
5. That the present application is within time, from the date of knowledge, however, a separate application for condonation of delay is being filed along with this application and law favours adjudication of cases on merits and to avoid technicalities. Besides, valuable rights of petitioner are involved.
6. That this Honourable Tribunal has vast powers to restore the Service Appeal.

It is, therefore, most humbly prayed that the above titled service appeal may please be restored in the interest of justice.

Yours Humble Petitioner

(Sheikh Uzair Ali)  
Through Counsel

AHMAD ALI  
Advocate Supreme Court

Dt. 22.04.2024

KHALID MAHMOOD  
Advocate High Court, D.I.Khan.

**AFFIDAVIT:**

I the petitioner do hereby solemnly affirm and declare on oath that all the para-wise contents of this application are true and correct to the best of my knowledge, belief and information and that nothing has been deliberately concealed from this Honourable Tribunal.

**Identified by Counsel:**

**Deponent**

5

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR.**

Civil Misc. Application No. \_\_\_\_\_ of 2024

In Service Appeal No. 1413/2023

**Sheikh Uzair Ali Vs. Govt. of Khyber Pakhtunkhwa etc**  
**RESTORATION APPLICATION**

**APPLICATION FOR CONDONATION OF  
DELAY.**

**Respectfully Sheweth,**

1. That an application for restoration of the Service Appeal is being filed before this honourable court and the same may please be considered as an integral part of this application.
2. That the above titled service appeal was fixed before this Honourable Tribunal for 22.11.2023 and on the said date the learned counsel for petitioner was busy before the august Supreme Court of Pakistan, and the junior counsel was also busy before the worthy Peshawar High Court, whereas, the petitioner in relation with earning his livelihood has been living in Karachi. Therefore, attendance could not be made before this Honourable Tribunal on the date fixed.
3. That the petitioner and his both the counsel remained unaware of the dismissal of service appeal on the date fixed as no notice, prior to such dismissal, was served upon the petitioner or his counsel.
4. That the restoration application is within time, from the date of knowledge, and the delay so occurred was due to the aforesaid reason, which for the overall interest of justice may please be


condoned by considering the above facts and circumstances as sufficient cause to condone the delay.

It is, therefore, most respectfully prayed that the delay so occurred in filing of restoration application may please be condoned in the overall interest of justice and the restoration application may please be considered as within time.

Yours Humble Petitioner

  
(Sheikh Uzair Ali)  
Through Counsel

Dt. 22.04.2024

  
AHMAD ALI  
Advocate Supreme Court

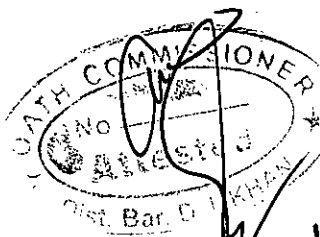
  
KHALID MAHMOOD  
Advocate High Court, D.I.Khan.

**AFFIDAVIT:**

I the petitioner do hereby solemnly affirm and declare on oath that all the para-wise contents of this application are true and correct to the best of my knowledge, belief and information and that nothing has been deliberately concealed from this Honourable Tribunal.

  
**Identified by Counsel:**

  
**Deponent**

  
OATH COMMISSIONER  
Dist. Bar. D.I. KHAN  
22/4/24

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. \_\_\_\_\_ of 2023

Sheikh Uzair Ali son of Muhammad Alamgir, residing near Margala Marriage Hall, Opposite Awan Chow, D.I.Khan.


**APPELLANT**

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa, through Secretary Labour Department, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa Labour Department, Peshawar.
3. Presiding Officer, Labour Court, D.I.Khan.

**RESPONDENTS**

**SERVICE APPEAL UNDER SECTION 4 OF THE  
K.P. SERVICE TRIBUNALS ACT, 1974,  
AGAINST ORDER BEARING EMDST. No.6-8/  
L/C/DIK/2023 DATED 04.01.2023 OF THE  
RESPONDENT No.3 WHEREBY PETITIONER  
WAS DISMISSED FROM SERVICE, AND ALSO  
AGAINST THE DECISION DATED 31.03.2023  
OF THE RESPONDENT No.2 (COMMUNICATED  
TO APPELLANT THROUGH WHATSAPP ON  
31.05.2023 AND OFFICIALLY ON  
06.06.2023) VIDE WHICH THE SERVICE  
APPEAL OF PETITIONER WAS DISMISSED.**

*Attested*  




**PRAYER:**

On acceptance of present Service Appeal and by setting aside the Order bearing Endst. No.6-8/L/C/DIK/2023 dated 04.01.2023 of the Respondent No.3 and decision dated 31.03.2023 of the respondent No.2, the appellant may graciously be reinstated into service with all back benefits.


Any other appropriate remedy which this Honourable Tribunal may deems proper, in the circumstances of case, may also be granted to the appellant.

**Respectfully Sheweth,**

1. That the appellant was appointed as Bailiff/Attendant in the Labour Court, D.I.Khan and he used to perform his duties as attendant in the Court. However, during the performance of his duties the respondent No.3 issued charge sheet and statement of allegations to the appellant on the following allegations:

- i. *Embezzled/misappropriated money out of fine amount collected by this Court and entrusted to you for deposit in account head CO-2905 of National Bank Main Branch, D.I.Khan.*
- ii. *Affixed fake signatures on Presiding Officer of this Court on vouchers, tampered/made overwriting on vouchers and either affixed fake and forged signatures and stamps of Bank officials or enroped them to work in callus on with you.*
- iii. *Affixed fake and forged signatures and stamps of officers/officials of District Accounts Office, D.I.Khan, on Monthly Reconciliation Statements or enroped them to work in collusion with your*

Copies of appointment order charge sheet and statement of allegations respectively are enclosed as **Annexure A, B & C.**

*Attested*  


2. That on the same day of issuing charge sheet and statement of allegations, the appellant was also served with a show cause notice to which he submitted his reply/defence and also filed defence to charge sheet and statement of allegations. Copy of the Show Cause Notice is enclosed as Annexure D. Copies of the written defence of appellant to charge sheet and show cause notice etc are enclosed as Annexure E.
3. That without proceeding to the Charge Sheet and Statement of Allegations, the respondent No.3 directly switched to the Show Cause Notice and thereafter, dismissed the appellant from service vide order bearing Endst. No.6-8/L/C/DIK/2023 dated 04.01.2023 (Annexure F) and also sent copy of the order to the Anti-Corruption Establishment to proceed against the appellant on account of alleged financial embezzlement.
4. That the appellant preferred representation to the departmental appellate authority i.e. respondent No.2 (Annexure G), the respondent No.2 called comments of respondent No.3 vide letter dated 13.02.2023 (Annexure H) and also summoned the appellant for personal hearing vide letter dated 08.03.2023 (Annexure I). After personal hearing, the appellant was directed to wait for the outcome of departmental appeal.
5. That the appellant was waiting for the outcome of his departmental appeal and on 31.05.2023, he received illegible copy/snapshot of the decision dated 31.03.2023 through WhatsApp from the Superintendent Labour Court D.I.Khan. The appellant contacted him and requested him to officially hand over the copy of decision dated 31.03.2023 which, accordingly, was handed over to him on 06.06.2023.

Copies of the printout of WhatsApp message containing decision dated 31.03.2023 with the illegible print are enclosed as Annexure J.

A. Akhbar  
A

4 10

Copy of the decision dated 31.03.2023, officially received to appellant on 06.06.2023, is enclosed as Annexure K.

6. That, aggrieved of the Order bearing Endst. No.6-8/ L/C/DIK/2023 dated 04.01.2023 of the Respondent No.3 and decision dated 31.03.2023 of the respondent No.2, the appellant has been left with no option but to file present service appeal before this Honourable Tribunal on, inter alia, the following grounds:

**GROUND:**

- i. That the impugned Order bearing Endst. No.6-8/ L/C/DIK/2023 dated 04.01.2023 of the Respondent No.3 and decision dated 31.03.2023 of the respondent No.2, are violative of the law, rules and procedure governing disciplinary matters, result of haste, illegal and summary in nature, and thus the same are liable to be set at naught.
- ii. That the procedure provided for disciplinary proceedings in the K.P. Government Servants (Efficiency & Discipline) Rules, 2011, has not been followed in the letter and spirit, therefore, impugned orders are ill-founded and without any legal backing. Legally, after adopting procedure laid down under Rule 5(1)(b) and issuing Charge Sheet etc under Rule 5(2), the better course was to proceed further into the matter in accordance with Rule 11. But illegally, unlawfully and by exceeding the jurisdiction, the respondent No.3 switched-back to Rule 5(1)(a) of the ibid Rules, 2011. On this legal flaw alone, the appellant is entitled to be reinstated into service.
- iii. That as per provision of the K.P. Civil Servants (Efficiency & Discipline) Rules, 2011, a show cause notice can be issued to an employee in case:
- a. If inquiry is dispensed with by an order in writing, which is not the case, as Charge Sheet & Statement of Allegations were issued to appellant;

Attested

- b. Upon completion of inquiry proceedings where charges and allegations are proved against a civil servant; w

Undeniably, in the present case, after issuing charge sheet and statement of allegations to the appellant, no inquiry was conducted into the matter, hence a great injustice has been done to the appellant.

- iv. That respondent No.3 erred a-lot in issuing the show cause notice to appellant as the inquiry was not dispensed with and Statement of Allegation & Charge Sheet were issued to him, and therefore, inquiry into the matter was the legal requirement; and after the charge sheet etc, no jurisdiction was vested in the respondent No.3 to bypass the inquiry procedure. The appellate authority too failed to exercise its jurisdiction and therefore both the impugned orders/decision are liable to be set aside.
- v. That it is also an admitted fact on the face of record that no independent inquiry was conducted into matter and also appellant was not confronted with any evidence, on the basis whereof the respondent No.3, passed the impugned order. Hence, a great injustice has been done to the appellant.
- vi. That the respondent No.3 on the basis of alleged reports of the officials of District Accounts Office D.I.Khan as well as National Bank of Pakistan, without recording their evidence and without giving opportunity of cross examination to appellant, in a slipshod and mechanical manner passed the impugned order. The respondent No.2 also did not attend this aspect of the case.
- vii. That the show cause notice issued to the appellant did not contain the details of alleged embezzled amount nor the proofs on the basis whereof the authority presumed that the stamps

A. H. Khan

and signatures of the staff of Bank or Account Office are bogus or tempered. No Bank Officer/official or that the District Accounts Officer was examined. Similarly, there is nothing on the record on the basis whereof stamps have been presumed to be bogus or tempered.

- viii. That the respondent No.3 was not sure about involvement of the staff of Bank or Account Office or otherwise and also, she was not sure about the fact that whether it was actually the fault of appellant or any other, that's why the matter was referred to the Anti-Corruption Establishment to include the officials of Bank and Accounts Office in the sphere of doubt to sort out the actual culprit; hence, impugned dismissal cannot be sustained legally.
- ix. That, it is/was not the duty of appellant to maintain the Accounts, Accounts Registers, or statement of Accounts nor he is custodian of the record. Moreover, fine receipts too were neither prepared nor maintained by the petitioner nor any fines were received by petitioner. The appellant was neither the custodian of record nor he used to receive the fines, nor he prepare challans, rather he was only a helping a hand to the concerned accounts clerk as well as reader of the court.
- x. That a fact-finding inquiry or inquiry under E&D Rules, 2011 was unavoidable, as it was not a simple open & shut matter, rather a number of mysteries have been left unexposed. Besides, the forensic analysis of the stamps, signatures and hand writing was necessary to meet the ends of justice. But, no fair chance of defence has been afforded to the appellant.
- xi. That the appellant was waiting for the outcome of his departmental appeal and on 31.05.2023, he received illegible copy/snapshot of the decision dated 31.03.2023 through WhatsApp from the Superintendent Labour Court D.I.Khan.

Attest  
[Signature]

26

7

7 13

The appellant contacted him and requested him to officially hand over the copy of decision dated 31.03.2023 which, accordingly, was handed over to him on 06.06.2023. Hence, from the date of communication of copy of the decision dated 31.03.2023, this service appeal is well within time, however, a separate application is also being filed in this regard.

- xii. That the counsel for appellant may be allowed to raise additional grounds at the time of arguments.

It is therefore, humbly prayed that the present service appeal may graciously be allowed as prayed for.

Yours Humble Appellant



(Sheikh Uzair Ali)  
Through Counsel


Dt. 16.06.2023



AHMAD ALI  
Advocate Supreme Court



KHALID MAHMOOD  
Advocate High Court, D.I.Khan

Attended  


**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. \_\_\_\_\_ of 2023

**Sheikh Uzair Ali Vs. Govt. of Khyber Pakhtunkhwa etc  
Service Appeal**

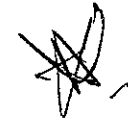
**VERIFICATION:**


I, the appellant, on this day of June-2023, herein mentioned above, do hereby verify that all the contents of this appeal are true & correct and also that it is the first appeal on the subject matter and no such appeal has earlier been filed.

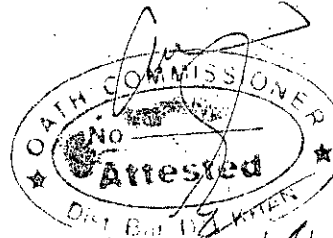
  
Appellant

**AFFIDAVIT:**

I, the appellant; do hereby solemnly affirm and declare on oath that all the Para-wise contents of above **Service Appeal** are true & correct to the best of my knowledge, belief and information; and that, nothing has been deliberately concealed from this Honourable Tribunal.

  
Identified by Counsel:  
Ahmad Ali ASC.

  
Deponent



20/6/23

Attested  


Shiekh Uzair An

14/3/2023

21.07.2023


Learned counsel for the appellant present.

Preliminary arguments heard.

15

Points raised need consideration, therefore, the appeal is admitted to regular hearing subject to all legal and valid objections including the question of limitation. The appellant is directed to deposit security fee within 10 days. Respondents be summoned through TCS, the expenses of which be deposited by the appellant within three days. To come up for submission of written reply/comments on 20.09.2023 before the S.B at Camp Court D.I.Khan. Parcha Peshi given to learned counsel for the appellant.


SCANNED  
KPST  
Peshawar

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

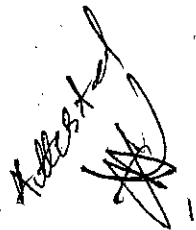
\*Naeem Amin\*

20.09.2023

Learned counsel for the petitioner present and requested for time to deposit security fee. Granted. Appellant is directed to deposit security fee within 7 days, thereafter notice be issued to respondents for submission of written reply/comments. Respondents be summoned through TCS, the expenses of which be deposited by appellant within 7 days. To come up for written reply/comments on 22.11.2023 before S.B at camp court D.I.Khan. P.P given to appellant.

  
(Rashida Bano)  
Member (J)  
Camp Court, D.I.Khan

\*Kaleem Ullah\*



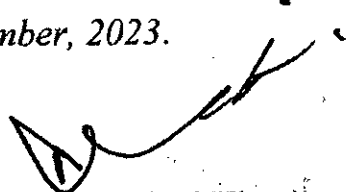


22<sup>nd</sup> No. 2023

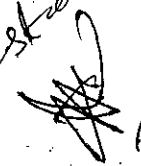
1. Nobody is present on behalf of the appellant. Mr. Habib Anwar, Additional Advocate General for the respondents present.

2. Despite directions to the appellant to deposit security fee as well as expenses of TCS for summoning respondents, the same have not been deposited. Therefore, this case is dismissed due to non-compliance of the Court order. Consign.

3. *Pronounced in open Court at D.I.Khan and given under my hand and seal of the Tribunal on this 22<sup>nd</sup> day of November, 2023.*

  
(Kalim Arshad Khan)  
Chairman

\*Muazem Shah\*

*Attested*  


MR. AHMAD ALI  
Advocate  
Supreme Court of Pakistan (ASC)



(Mian Abbas Ahmad)  
Chairman  
Executive Committee

Date of Issue : 13-06-2013 Valid Upto : 31-12-2015

(Muhammad Arshed)  
Secretary  
Pakistan Bar Council

MEMBER  
ASC CARD

وکالت نامہ

کورٹ  
فیس

حساب کتبہ کراچی  
مجاہدین سوسائٹی  
پتہ: گلبرگ ٹاؤن کراچی

دعویٰ یا جرم

دعویٰ یا جرم

تفصیل دعویٰ یا جرم

باعث تحریر آنکہ

احمد علی انور کوکسٹ ہیرس کورٹ

کے حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا ہذا بذریعہ دو برادریوں حاضر ہوتا رہوں گا اور ہر وقت پکارنے جانے مقدمہ وکیل صاحب  
موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب  
موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ یا کچہری کے اوقات سے پہلے یا چھپے یا بروز تعطیل  
جیوٹی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر کچہری کے علاوہ اور جگہ ساعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے یا چھپے پیش کرنے  
پر مظہر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا سخت نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ  
کو حق ساختہ پر داخستہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دشمنی یا جواب دعویٰ یا درخواست اجراء ایسے ڈگری  
نکڑ پٹی ایٹیل گمرانی ذہنم درخواست ہر قسم کے بیان دینے اور پر غامبی یا راضی نامہ و فیصلہ برطرف کرنے اقبال دعویٰ کا بھی اختیار ہو گا اور بصورت مقرر ہونے  
تاریخ پیشی مقدمہ مزکور ہیرون از کچہری صدر بیرونی مقدمہ مزکور نظر ثانی ایٹیل ڈگری و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ یا درخواست حکم امتناعی یا فرنی  
یا گرفتاری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ محتاط ہیرونی کا اختیار ہو گا اور تمام ساختہ پر داخستہ صاحب موصوف مثل کردہ  
از ذمہ منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو گا کہ مقدمہ مزکورہ یا اس کے کسی جزئی کاروائی یا بصورت درخواست نظر ثانی  
ایٹیل گمرانی یا دیگر معاملہ و مقدمہ مذکورہ کسی دوسرے وکیل یا ہیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے  
اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جائز اجراء پرے گا وہ صاحب موصوف کا حق ہو گا مگر  
صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروی نہ کریں اور ایسی بصورت  
میں یہ کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہو گا

لہذا وکالت نامہ مذکورہ دیا ہے تاکہ سند سے  
مورخہ 22 ماہ 04 2024ء

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

محمد عزیز علی

Accepted By  
[Signature]