


Form-A  
FORM OF ORDER SHEET

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

**Restoration Application No. 712/2024**

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	10.07.2024	<p>The application for restoration service appeal 411/2024 submitted today by Mr. Bilal Ahmad Kakaizai Advocate. It is fixed for hearing before Division Bench at Peshawar on 12.07.2024. Original file be requisitioned. Parcha Peshi given to the counsel for the applicant.</p> <p>By the order of Chairman  REGISTRAR</p>

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

R.A  
GM No. 712/2024

In

Appeal No:- 411/2024

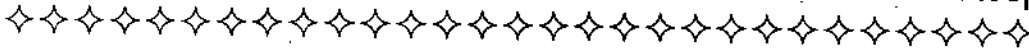
Kamran Ullah

..... Appellant

**Versus**

Secretary Communication & Works Department Govt. of KPK Civil  
Secretariat, Peshawar & Others

..... Respondents

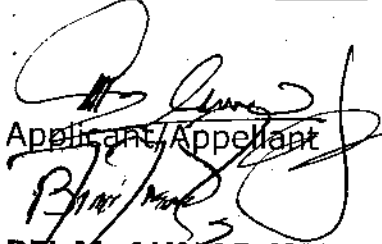


**INDEX**

S#	Description of the Documents	Annex	Pages
1.	Restoration application alongwith affidavit	*	1-3
2.	Copy of order dated: 02-07-2024	A	4-11

Dated:- 10-07-2024

Through:-

  
Applicant/Appellant  
**BILAL AHMAD KAKAIZAI**  
Advocate Supreme Court  
of Pakistan

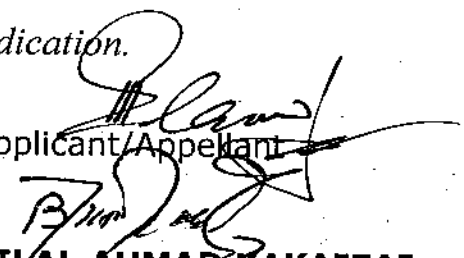


2. That the appellant was ill and thus not able to appear before the Hon'ble Tribunal on the date fixed.
3. That the counsel for the appellant was busy before the Hon'ble Peshawar High Court and when the counsel reached the Hon'ble Tribunal he was informed that the subject case is dismissed in default vide order dated: 02/07/2024. (Copy of Order is attached).
4. That non appearance on part of the counsel for appellant was neither deliberate nor intentional but due to the reason mentioned above.
5. That the application is within the time and there is no legal bar upon the Hon'ble Tribunal to accept this application and restore the above mentioned appeal for the best interest of justice.
6. That any other grounds will be raised with the prior permission of Hon'ble Tribunal.

*It is, therefore, most humbly prayed that on acceptance of this application the captioned appeal may be restored for its proper adjudication.*

Dated:- 10-07-2024

Through:-

  
Applicant/Appellant

**BILAL AHMAD KAKAIZAI**  
Advocate Supreme Court  
of Pakistan

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

CM No. \_\_\_\_/2024

In

Appeal No:- 411/2024

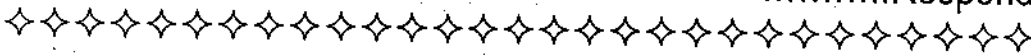
Kamran Ullah

..... Appellant

**Versus**

Secretary Communication & Works Department Govt. of KPK Civil  
Secretariat, Peshawar & Others

..... Respondents



**AFFIDAVIT**

I, Kamran Ullah S/o Tila Muhammad R/o Post Office  
Nahqi Daudzai, Nahqi Tehsil & District Peshawar, (The  
Appellant) do hereby solemnly affirm and declare on oath that the  
contents of this accompanying Application for Restoration are  
true and correct to the best of my knowledge and belief and  
nothing has been concealed from this Honourable Court.

Identified by

**BILAL AHMAD KAKAIZAI**  
Advocate Supreme Court  
of Pakistan

  
DEPONENT  
10-7-24

(2)

(4)

A

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 411 /2024



Kamran Ullah,  
Senior Clerk / Sub-Divisional Accountant *Executive Engineer*  
S/o Tila Muhammad R/o Post Office Nahqi, Daudzai, Nahqi, *C & W, Highway*  
Tehsil and District Peshawar. *Division, Khyber*  
*Jamrud, District*  
..... Appellant *Khyber*

Versus

1. Secretary, Communication & Works Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary, Communication & Works Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. Chief Engineer (Central), Communication & Works Department, Government of Khyber Pakhtunkhwa, Peshawar.
4. Executive Engineer, Communication & Works Department, Highway Division, Khyber, Tehsil Jamrud.
5. Hameedullah, Accounts Clerk, Additional Charge of SDA/Accounts Clerk, Highway Division, Khyber, Tehsil Jamrud.

..... Respondents

**ATTESTED**  
*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(S) (S)

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT, 1974  
AGAINST:

1. IMPUGNED TRANSFER ORDER DATED 08.12.2023 WHEREBY APPELLANT HAS BEEN, ILLEGALLY AND UNLAWFULLY, TRANSFERRED FROM THE POST OF SENIOR CLERK / SDA, XEN HIGHWAY DIVISION, KHYBER TO THE CHIEF ENGINEER (CENTRAL) FOR FURTHER POSTING.

AND

2. IMPUGNED APPELLATE ORDER DATED 02.02.2024 COMMUNICATED TO THE APPELLANT VIDE COVERING LETTER NO. SOE/C&WD/24-60/2023 DATED 29.02.2024 WHEREBY THE DEPARTMENTAL APPEAL / REPRESENTATION OF THE APPELLANT HAS BEEN REGRETTEED.

Prayer: That, on acceptance of this Service Appeal the Impugned Transfer Order dated 08.12.2023 as well as Impugned Appellate Order dated 02.02.2024 be set-aside and Appellant be allowed to perform his duty as per the position prevalent before the issuance of Impugned Order dated 08.12.2023, with such other relief as may deem fit in the circumstances of the case may also be granted..

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:

1. That, Appellant was performing his duties as Senior Clerk / Sub Divisional Accountant in the office of C&W Highway Division-I, Peshawar, when he was directed vide Order dated 16.08.2023 to report to the office of Chief Engineer (Centre) C & W Department, Peshawar, copy of the Office Order dated 16.08.2023 is attached as Annexure A.

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(A)

(B)

2. That, vide Letter dated 06.09.2023, Respondent No. 4 i.e. XEN Highway Division Khyber requested to Transfer the Appellant to Highway Division, Khyber instead of Peshawar, In pursuance whereof, the request was honored and Appellant was transferred, accordingly, vide Letter dated 13.09.2023, copies of the Letter dated 06.09.2023 & Office Order dated 13.09.2023 along with Arrival Report of the Appellant of even date are attached as Annexure B, C & D.
3. That, within a span of 3 months, on 04.12.2023, Appellant was again transferred from Highway Division, Khyber to office of the XEN C&W, Swat -I, copy of the Office Order dated 04.12.2023 is attached as Annexure E. It merits mentioning here that on 07.12.2023, the Office Order dated 04.12.2023 was cancelled by the Department, on its own, copy of the Office Order dated 07.12.2023 is attached as Annexure F.
4. That, once again on the very next day i.e. on 08.12.2023, Impugned Transfer Order was issued whereby Appellant was once again directed to report to Chief Engineer (Centre), Respondent No. 3, for further posting, copy of the Impugned Transfer Order dated 08.12.2023 is attached as Annexure G.
5. That, against the Impugned actions, inactions of the Department and issuance of Impugned Transfer Order dated 08.12.2023, the Appellant submitted his Departmental Appeal / Representation on 11.12.2023 before Respondent No. 2, copy of the Departmental Appeal / Representation is attached as Annexure H.
6. That, after filing the Departmental Appeal / Representation, Appellant approached Honorable Peshawar High Court, Peshawar in Writ Petition 6069-P / 2023. It is important to mention here that the Honorable Court initially vide Order dated 04.01.2024 suspended the operation of Impugned Transfer Order dated 08.12.2023, copies of memo of Writ Petition No. 6069-P / 2023 along with Interim Order dated 04.01.2024 are attached as Annexure I.
7. That, keeping in view the Interim Order dated 04.01.2024, the Respondents Department suspended the operation of Impugned Transfer Order dated 08.12.2023 vide Order dated 09.01.2024. It merits mentioning here that the Interim Order was in filed till 20.02.2024 when the Writ Petition was dismissed for want of

ATTESTED  
CHIEF CLERK  
Service Tribunal  
Peshawar  
09/23



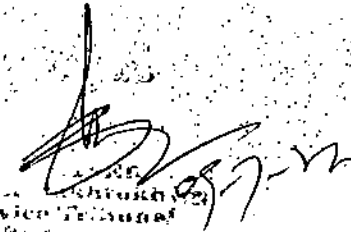
(A)                      (7)

jurisdiction, in pursuance of which the Impugned Order dated 08.12.2024 was restored, copies of the Order dated 09.01.2024, Court Order dated 20.02.2024 and Order dated 21.02.2024 are attached as Annexure K.

8. That, thereafter, the Respondents Department, rejected the Departmental Appeal / Representation of the Appellant vide Order dated 02.02.2024 communicated to the Appellant on 29.02.2024, copies of the Appellate Order dated 02.02.2024 and Covering Letter dated 29.02.2024 are attached as Annexure L, hence, this Service Appeal on the following amongst other grounds: -

GROUNDS:

- A. That, the Impugned Transfer Order dated 08.12.2023 as well as Impugned Appellate Order dated 02.02.2024 are illegal, unlawful, void and ineffective.
- B. That, the same are against the principles of natural justice, also.
- C. That, the Impugned Order is without lawful authority and without jurisdiction thus untenable and is liable to be set-aside.
- D. That, since last more 6 months, Appellant has been made a rolling stone between different offices / districts of the Respondents Department, which act of the Respondents is highly condemnable and is illegal as well.
- E. That, the Appellant served the Department with devotion and meritorious services were rendered without any complaint and he is unable to understand that why the Department has made him a shuttle cock between different offices.
- F. That, as per the policy governing the subject, the Appellant has a right to complete his normal tenure in one place, after which the Respondents are at liberty to post him at any place keeping in view the public interest and demand.

  
A. R. S. CHITRACHAND  
Senior Technical Officer  
Department of Education

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- G. That, from the aforesaid annexed record, it becomes crystal clear that Appellant has been transferred in short span of time for no legal reasons
- H. That, the Impugned Order is politically motivated and has not been issued in the best interest of public.
- I. That, when the Competent Authority use to issue frequent transfer orders time and again, in favour or disfavor of an incumbent, the same not only reduces confidence but it also effects efficiency of a Civil Servant, for no just reason.
- J. That, the Impugned Order is based on malafides and has been issued on the behest of political vendetta.
- K. That, on 25.09.2023, Respondents Department also cancelled all the additional charges or status of OPS of all the officials, moreover as a matter of good governance it was also directed not to post or grant additional charge to any one, copy of the Order dated 25.09.2023 is attached as Annexure M.
- L. That, despite the clear cut directions of the Government, the Respondent No. 5 being a Senior Clerk was granted the charge of Sub Divisional Accountant additionally.
- M. That, the Impugned Transfer Order is itself against the spirit of directives contained in the Order dated 25.09.2023 as the Respondents Department allowed additional charge to one Hameed Ullah who is a promotee having a regular charge of Accounts Clerk in the office of Khyber Highway.
- N. That during the formation of caretaker government, the caretaker government, its ministers & the departments under the supervision of the ministers are strictly directed to not transfer / post any government employee / civil servant during the their caretaker tenure of government.
- O. That, the Appellant has not relinquished the Charge as yet nor someone has been posted in his place.

ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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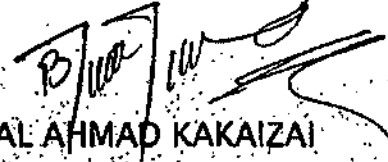
P. That other grounds, if any, may be raised during the arguments with the permission of this Honorable Tribunal.

It is, therefore, requested that Appeal be accepted as prayed for.

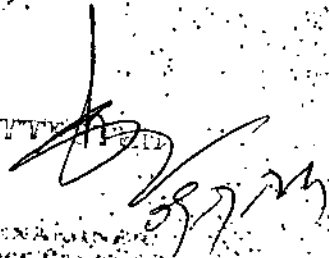


Appellant

Through:



**BILAL AHMAD KAKAIZAI**  
(Advocate, Supreme Court of Pakistan)  
213, Sunehri Masjid Road, Near HBL  
Nothia Branch, Peshawar Cantt.  
0300-9020098.



ADVOCATE  
PESHAWAR  
CHIEF JUSTICE  
Service Tribunal  
Peshawar

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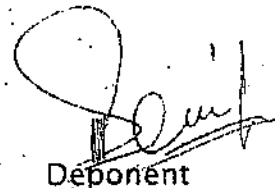
**BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No: \_\_\_\_\_ / 2024

**KAMRAN ULLAH** vs Government of Khyber Pakhtunkhwa etc.

**AFFIDAVIT**

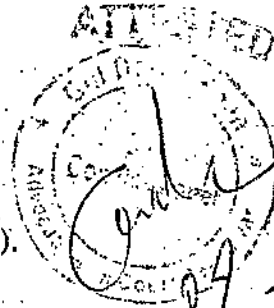
I, **KAMRAN ULLAH**, S/o Tila Muhammad, R/o Post Office Nahqi, Daudzai, Nahqi, Tehsil and District Peshawar, Applicant / Appellant, do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

  
Deponent

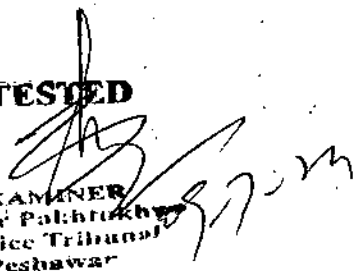
Identified by:



**BILAL AHMAD KAKAIZAI**  
(Advocate, Supreme Court of Pakistan).

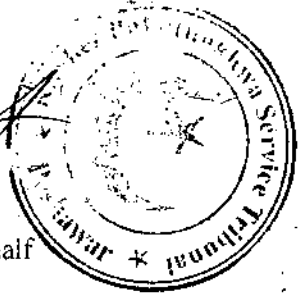
**ATTESTED**  


**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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A No 411/24  
Kamran Ullah vs Govt




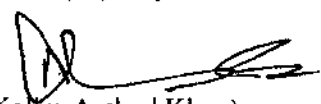
ORDER  
2<sup>nd</sup> July 2024

**Kalim Arshad Khan, Chairman:** Nobody present on behalf of the appellants. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

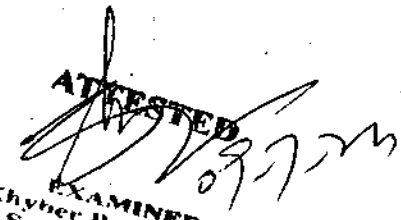
2. The case was called several times but neither appellant nor his counsel turned up before the Tribunal, till its rising. Therefore, the appeal in hand is dismissed in default. Consign.

3. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 2<sup>nd</sup> day of July, 2024.

  
(Rashida Bano)  
Member(J)

  
(Kalim Arshad Khan)  
Chairman

\*Adnan Shah, P.A.\*

  
**ATTESTED**  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 05/7/24  
Number of ~~Words~~ 9 pages  
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