


Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 429/2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.05.2024	<p>The application for restoration of Appeal No. 1963/2021 submitted today by Mr. Hassan Zaib Rahim Advocate. It is fixed for hearing before Division Bench at Peshawar on 31.05.2024. Original file be requisitioned. Parcha Peshi given to counsel for the applicant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

الحمد لله رب العالمين
السيد محمد باقر

بسم الله الرحمن الرحيم

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BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR.

CM (Restoration) No:- 429 /2024

In

Service Appeal No:- 1963-P/2021

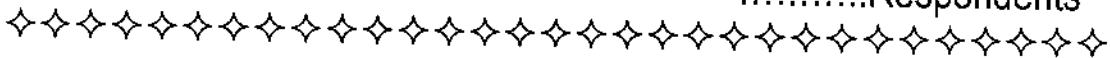
Sajjad Ali

Versus

Wild Life & others

..... Petitioners

..... Respondents



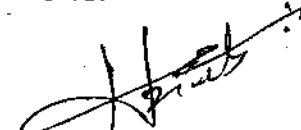
INDEX

S#	Description of the Documents	Annex	Pages
1.	<i>Application fort restoration</i>	*	1-4
2.	<i>Affidavits</i>	*	5-6
3.	<i>Application for condonation of delay alongwith affidavit</i>		7-9
4.	<i>Attested copy of appeal</i>		10
5.	<i>Attested copy of Order sheet dated: 26- 03-2024</i>		11-12
6.	<i>Copy of PP</i>		13

Dated:- 24/05/2024


Petitioner

Through:-


Hasan Zaib Rahim
Advocate High Court
Peshawar

①

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR.

CM (Restoration) No:- 429 /2024

In
Service Appeal No:- 1963-P/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13040

Dated 29-05-24

Sajjad Ali Khan S/o Rabiaz Khan, Ex-Driver in the Office of Divisional Forest Wildlife Division, Bannu R/o Kotaka, Bahadar Khel, Sokan Zabta Khan, Tehsil & District Bannu. Petitioner

Versus

- 1) Chief Conservator Wildlife Khyber Pakhtunkhwa, Peshawar.
- 2) Conservator Wildlife Southern Circle, Peshawar.
- 3) Divisional Accountant Wildlife, Bannu.
- 4) Motor Licensing Authority, Bannu.
- 5) Niamat Ullah Khan, Divisional Forest Officer, Wildlife Division, Bannu.

..... Respondents

APPLICATION FOR RESTORATION OF THE ABOVE TITLED
SERVICE APPEAL AND DECISION ON MERIT.

Respectfully Sheweth:-

1. *That the above titled service appeal is pending adjudication before this Honourable Tribunal and was lastly fixed on 09/02/2024.*

2

2. That on the date fixed the counsel and the petitioner appeared before this Hon'ble Tribunal and the court reader given the Parcha Paishi for the next date 22/05/2024 with endorsement of his signatures (Court Reader Safeer Ullah).
3. That on the date fixed 22/05/2024 the counsel and the petitioner appeared before this Tribunal for arguments but after getting knowledge about the said appeal the Branch Moharror informed the counsel that the subject appeal was dismissed for non prosecution on 26/03/2023. (Copy is attached).
4. That the petitioner has no other remedy, but to file the instant application for restoration of the main appeal on the following amongst other grounds:-

Grounds:-

- A. That on previous date i.e. 30/11/2023 the counsel alongwith petitioner appeared before the Hon'ble D.B of this Tribunal and the said order sheet this Hon'ble Tribunal issued direction to the petitioner to deposit the diet money for informing the private respondent No. 04 within 03 days and given PP for 09/02/2024.

- B. That on the date fixed 09/02/2024, the counsel alongwith petitioner appeared before the court and called for the respondent No. 04 but the respondent No. 04 despite of service not appeared hence the court proceeded ex-parte on the date fixed and the Hon'ble Tribunal fixed the next date of hearing as 22/05/2024 and the court reader also given PP to the appellant alongwith his counsel with the endorsement of his signatures. **(Copy attached herewith).**
- C. That on the very day and the date fixed, the counsel alongwith petitioner appeared before this Hon'ble Tribunal and approached with the Court Reader for attendance but the Court Reader perused the list of cases, the appeal of the appellant was not mentioned then the appellant approached the concerned Moharror and the Moharror informed the appellant and his counsel that the appeal was dismissed on 26/03/2024. The appellant was very shocked when heard about the dismissal of the subject appeal for non prosecution. **(Copy of Diary is attached).**
- D. That the order dated: 26/03/2024 is wrong, against the law & facts because the Court Reader handed over the PP to the appellant for the 22/05/2024 with the endorsement of his signatures because the non appearance of the appellant and his counsel was not willful but due to the mentioned reason above, hence the present petition for restoration.

4

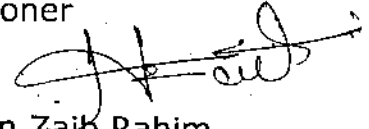
- E. *That important question of law and facts are involved in the matter and the petitioner is sanguine about the success of the case.*
- F. *That the instant application is well within time because the appellant according to the PP given by the Court Reader with the endorsement of his signatures appeared on the date fixed.*
- G. *That in case the main petition is not restored then the petitioner will suffer irreparable loss.*
- H. *That law favors decision on merit and avoid technicalities.*

It is, therefore, most humbly prayed that on acceptance of this application the above tilted appeal may kindly be restored for its decision on merit.

Dated:- 24/05/2024

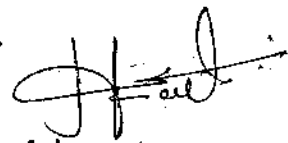

Petitioner

Through:-


Hasan Zaib Rahim
Advocate High Court

Certificate:-

It is certify that no such like application has earlier been filed by the Petitioner in this Honourable Court.


Advocate

5

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR.

CM (Restoration) No:- _____/2024

In
Service Appeal No:- 1963-P/2021

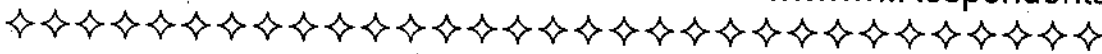
Sajjad Ali

Versus

Wild Life & others


..... Petitioners

..... Respondents



AFFIDAVIT

I, Hasan Zaib Rahim Advocate High Court, Peshawar (The counsel for petitioner) do hereby solemnly affirm and declare on oath that the contents of this accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.


DEPONENT



6

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR.

CM (Restoration) No:- _____ /2024

In

Service Appeal No:- 1963-P/2021

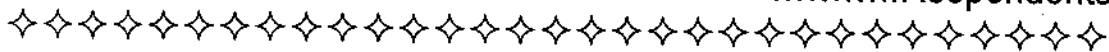
Sajjad Ali

Versus

Wild Life & others

..... Petitioners

..... Respondents



AFFIDAVIT

I, Sajjad Ali Khan S/o Rabiaz Khan, Ex-Driver in the Office of Divisional Forest Wildlife Division, Bannu (The petitioner) do hereby solemnly affirm and declare on oath on Holly Quran, that the contents of this accompanying **application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



Sajjad
DEPONENT

8

- expenses for summoning of private respondent No. 04, the request accepted and this Tribunal granted time for 09/02/2024.
- B. That on the above mentioned date i.e. 09/02/2024 during the proceeding this Hon'ble Tribunal called for the attendance of the respondent No. 04 but the respondent No. 04 despite of service not appeared hence the court proceeded ex-parte and the proceeding was fixed for the next date of hearing as 22/05/2024 and the court reader also given PP to the appellant alongwith his counsel with the endorsement of his signatures for 22/05/2024.
- C. That on the very date i.e. 22/05/2024, the petitioner alongwith their counsel appeared before this Hon'ble Tribunal for final arguments in the above mentioned titled appeal and by perusing the daily cause list the titled appeal was not enlisted and query asked by the counsel and the counsel told by the Moharror that the subject appeal was fixed for 26/03/2024 and it was dismissed for non prosecution, hence the present petition for condonation of delay.
- D. That valuable rights of the petitioner are involved in the instant application for restoration of the titled appeal, because delay is not voluntarily, but due to the above mentioned circumstances, which is liable to be condoned within time.

9

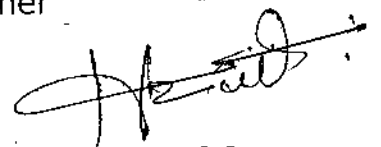
- E. That the delay in filing of the instant application for restoration of the titled appeal is not intentional nor deliberate, but due to reasons mentioned above.
- F. That for the reasons as stated above, the delay (if any) is condonable for decision of case on merits.

It is, therefore, prayed that on acceptance of this application, the delay (if any) in filing the accompanying application for restoration of the titled appeal may kindly be condoned for hearing and disposal of suit on merits.

Dated:- 24/05/2024

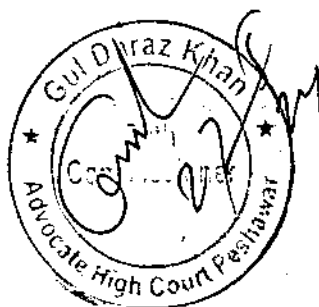

Petitioner

Through:-


Hasan Zaib Rahim
Advocate High Court
Peshawar

AFFIDAVIT

I, Sajjad Ali Khan S/o Rabiaz Khan, Ex-Driver in the Office of Divisional Forest Wildlife Division, Bannu, do hereby solemnly affirm and declare on oath that the contents of this accompanying application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.




DEPONENT

1



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. 1963 of 2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1704

Dated 29/11/2021

Sajid Ali Khan Son of Rabiya Khan, Ex-Driver in the Office of Divisional Forest Wildlife Division Bannu R/o Kotka, Bahader Khel, Sokan Zabta Khan Tehsil and District Bannu.

..... Appellant

VERSUS

- 1- Chief Conservator Wildlife Khyber Pakhtunkhwa Peshawar.
- 2- Conservator Wildlife Southern Circle Peshawar.
- 3- Divisional Accountant Wildlife Bannu.
- 4- Motor Licensing Authority Bannu.
- 5- Niamat Ullah Khan Divisional Forest Officer, Wildlife Division Bannu.

..... Respondents

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 21/10/2020 WHICH HAS BEEN COMMUNICATED BY RESPONDENT NO.5 VIDE ORDER DATED 29/10/2020 WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE WITH IMMEDIATE EFFECT.

Filed to-day

Registrar
29/11/2021

Prayer

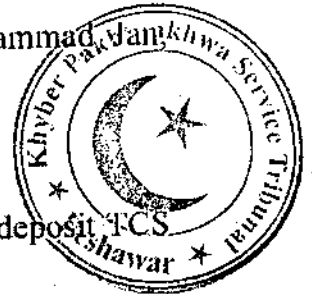
On acceptance of appeal, the impugned order dated 21/10/2020 which has been communicated vide order dated 29/10/2020 may kindly be set aside and the appellant may be reinstated in service with all back benefits.

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

30th Nov, 2023

1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for official respondents present.
2. Learned counsel for the appellant seeks further time to deposit TCS expenses for summoning of private respondent No. 4. He may do so within three days. Last opportunity is also granted to the appellant to argue the case on the next date positively. To come up for arguments on 09.02.2024 before D.B. P.P given to the parties.



Respondent 4 was put on notice for payment

SCANNED
11/30/23
Peshawar

kamranulhali

(Muhammad Akbar Khan)
Member (E)

(Rashida Bano)
Member (J)

09.02.2024 1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents present. Despite service nobody present on behalf of respondent No. 4, hence placed *ex-parte*.

2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up arguments on 26.03.2023 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

(Rashida Bano)
Member (J)

KaleemUllah

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

19


26.03.2024. Nobody present on behalf of appellant. Mr. Asif Masood


Ali Shah, Deputy District Attorney for the respondents present.



2. Called several times till last hours of the court but nobody turned up on behalf of the appellant. In view of the above, the instant appeal is dismissed in default. Consign.


3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 26th day of March, 2024.


(Farzana Parul)
Member (E)


(Rashida Bano)
Member (J)

KaleemUllah

ATTES


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 23-5-24
Number of Pages = 3
Copying Fee 15/-
Urgent 15/-
Total 20/-
Name of Copyist Shajid
Date of Completion of Copy 23-5-24
Date of Delivery of Copy 23-5-24

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22/5/24

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