


Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 990/2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.09.2024	<p>The application for restoration of service appeal No. 08/2022 submitted today by Syed Abdul Haq Advocate. It is fixed for hearing before touring Division Bench at Swat on 10.10.2024. Original file be requisitioned. Parcha Peshi given to the counsel for the applicant.</p> <p>By of order the Chairman</p> <p> REGISTRAR</p>

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

RA No: 990
CM No:/2024
In
Service Appeal No: 8/2022

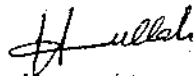
Hayat Ullah,

Versus


Secretary Elementary and Secondary Education & Others

INDEX OF DOCUMENTS

S.No	Description of Documents	Annexure	Page No
1	Application for restoration		
2	Affidavit		
3	Attested Copy of order dated 15/06/2023	"A"	


Applicant/Appellant

Through


SYED ABDUL HAQ
Advocate
Supreme Court, Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

RA
CM No. 990/2024

In
Service Appeal No: 8/2022

Khyber Pakhtunkhwa
Service Tribunal

Case No. 15717

Dated 11-09-24

1. Hayat Ullah S/O Momin Khan
R/O Gulicho, Paito Dara, District Dir Lower

.....Applicants/ Appellant

Versus

1. The Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar
2. The Director Elementary & Secondary Education, , Khyber Pakhtunkhwa, Peshawar
3. The District Education Officer (DEO) Male Dir Lower

.....Respondent/ Appellant

APPLICATION ON BEHALF OF APPELLANT/APPLICANT
FOR RESTORATION OF ABOVE TITLED APPEAL WHICH
HAS BEEN DISMISSED IN DEFAULT VIDE ORDER DATED
02/09/2024

Respectfully Sheweth,

The Applicant/ Defendant humbly submits as under,


1. That the above titled service appeal fixed before this Hon'ble Tribunal and is now fixed for arguments on 02/09/2024.
2. That this Hon'ble court was please to passed an order wherein dismissed the appeal mentioned above in default vide order dated 02/09/2024 . (Attested Copy of order dated 02/09/2024 is annexed as A)
3. That the Applicant/ Appellant seeks restoration of the instant appeal inter alia on the following grounds,

GROUND

- A. That the impugned order is against law on the subject and fact hence, is liable to be set aside.

- B. That appellant counsel was in Abbottabad while applicant/ Appellant was travelling from Timergara Dir Lower to Swat on the same day. While travelling to Service Tribunal due to heavy traffic the Appellant got late. Though the Appellant reached in late hours and asked about the case who was informed by the reader of the court that the case has been dismissed in default.
- C. That the non-appearance of the appellant was not intentional/ willful but was due to the above stated reasons.
- D. That valuable right of the applicant/ appellant is involved in the instant matter hence, the appeal of the appellant may kindly be restored.
- E. That right of hearing/ giving proper opportunity is a constitutionally guaranteed fundamental right of Applicant/ Defendant and no one should be condemned unheard.
- F. That in plethora of Judgments the August Supreme Court of Pakistan has held that law favours adjudication on merit and not on technicalities. In this respect reliance is placed on case titled Anwar Khan V/S Fazal Manan reported as **2010 SCMR 973**.
- G. That any other ground will be adduced at the time of arguments with kind permission of the Court.

It is, therefore, most humbly prayed that on acceptance of instant application, the impugned order may kindly be set aside and the appeal of the Appellant may kindly be restored for ends of justice.



Applicant/Appellant

Through



SYED ABDUL HAQ

Advocate

Supreme Court, Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

CM No...../2024

In

Service Appeal No: 8/2022

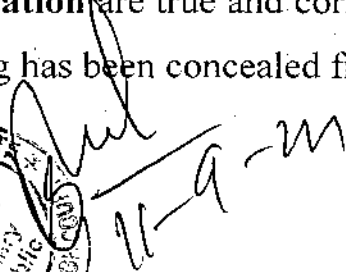
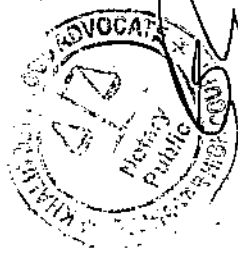
Hayat Ullah

Versus

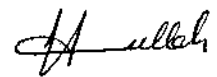
Secretary Elementary and Secondary Education & Others

AFFIDAVIT

I Hayat Ullah S/O Mommin Khan R/O Gulicho, Paito Dara, District Dir Lower do hereby solemnly declared and affirm that the contents of the accompanied Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Court.

Deponent



A

①

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

Service Appeal No. 8 /2021

Hayat Ullah S/O Momin Khan,
R/O Gulicho, Pito Dara District Dir Lower



.....APPELLANT.

VERSUS

1. The Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar
3. The District Education Officer (DEO) Male, Dir Lower.

.....RESPONDENTS.

**APPEAL UNDER SECTION 04 OF THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL ACT 1974, AGAINST THE OFFICE ORDER
DATED 16-08-2021 WHEREBY APPELLANT WAS REMOVED
FROM SERVICE WITH EFFECT FROM THE DATE OF ABSENCE
FROM THE DUTY AND AGAINST THE INACTION OF
RESPONDENTS WHEREBY DEPARTMENTAL APPEAL OF THE
APPELLANT HAS NOT BEEN RESPONDED WITHIN
STATUATORY PERIOD.**

Prayer:


By accepting the instant appeal, the impugned order dated 16-08-2021 may kindly be set aside and the respondents may kindly be directed to reinstate the appellant with all back benefits. Any other relief, which this Honorable Court deems fit and appropriate may also be granted to the Appellant for the ends of justice.

Respectfully Sheweth:

FACTS

1. That Appellant belongs to respectable family of the locality and belongs to Paito Dara Lower Dir.
2. That Appellant was appointed as a Chawkidar on 8-12-2006 by Respondent No. 03 in GPS, Gulicho Paito Dara, Dist. Dir Lower.

ATTESTED


REGISTRAR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



Service Appeal No. 8/2022 titled "Hayat Ullah Vs. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education and others"

ORDER

02.09.2024 Kalim Arshad Khan, Chairman: Nemo for the appellant. Mr.

Muhammad Jan, District Attorney for the respondents present.

2. On 01.07.2024 absolute last chance was given to the appellant, however today 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 at camp court, Swat and given under our hands and seal of the Tribunal on this 2nd day of September, 2024.

(Rashida Bano)
Member (J)
Camp Court, Swat

(Kalim Arshad Khan)
Chairman
Camp Court, Swat

Kaleemullah

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 11/8/23
Number of Words 2
Copying Fee 10/-
Urgent 5/-
Total 15/-
Name of Copyist
Date of Completion of Court 11/8/23
Date of Dec. 11/8/23