

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR CAMP COURT ABBOTTABAD.**

**RESTORATION APPLICATION NO. 539/2024**

IN

**CIVIL MISCELLANEOUS NO. 689/2022**

SA-No-1726/2019

Maqsood Ahmed .....Applicant

VERSUS

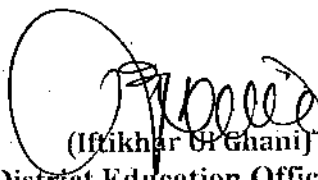
Govt of KP through Secretary E&SE Department & Others.....Respondents

**REPLY TO THE TITLED APPLICATION ON BEHALF OF THE RESPONDENTS**

**INDEX**

Sr.No	Description	Page Nos	Annexures
1	Reply to the Application		1 to 2.
2	Affidavit		3
3	Copy of Institution slip dated 24-01-2024	"A"	4
4	Copy of relevant pages of Service Tribunal rules 1974	"B"	5 to 6
5	Authority Letter		7

Dated: \_\_\_\_/09/2024

  
(Ifrikhar Ghani) 6/9/24  
District Education Officer (M)  
Abbottabad.  
(Respondent No. 02)

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**Respectfully Sheweth:-**

The respondents submit as under:-

1. That Para 01, of the instant application is correct.
2. That Para 02, of the instant application as composed is incorrect hence, denied and not admitted as written reply of objection petition on behalf respondents was submitted on 24-01-2024 vide Inst No. 10748 dated 24-01-2024 and the case was fixed for arguments on objection petition on 25-03-2024. (Copy of system generated receipt dated 24-01-2024 is annexed as **Annexure "A"**)
3. That Para 03, of the instant application pertains to record.
4. That Para 04, of the instant application as composed is incorrect hence, denied and not admitted Execution Petition was dismissed on 24-04-2024 while application for restoration was submitted on 06-06-2024 after lapse of prescribed limitation.
5. That Para 05, of the instant application as composed is incorrect hence, denied as instant application is hopelessly time barred in terms of **Rule 19 Sub Rule 3 of NWFP Service Tribunal Rules, 1974** as instant application has been filed after 43 days while applicant should have submitted application regarding restoration within 15 days. Further submitted that applicant did not file application for

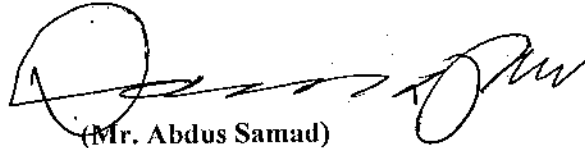
*Arif*

condonation of delay, hence application of the petitioner is liable to be dismissed. It is pertinent to mention here that this Honorable Tribunal has already dismissed Restoration Application 39/2016 in Service Appeal No. 1183/2015 vide judgment dated 22-09-2016. Operative part of judgment is as under:

**“Since petitioner has not submitted application for restoration of appeal within the prescribed period of limitation of 15 days as such the application is dismissed being time barred.”**

(Copy of relevant pages of Service Tribunal rules 1974 are annexed as **Annexure “B”**)

Therefore, in view of the above made submission it is humbly requested that this Honorable Tribunal may kindly dismiss the titled restoration application in favor of the Respondents in the interest of justice.



(Mr. Abdus Samad)  
Deputy Director (Legal), Directorate of E&SE  
On behalf of  
(Samina Altaf)  
Director (E&SE) Khyber Pakhtunkhwa  
Peshawar  
(Respondent No. 01)



(Iftikhar Ul Ghani)  
District Education Officer (M)  
Abbottabad  
(Respondent No. 02)

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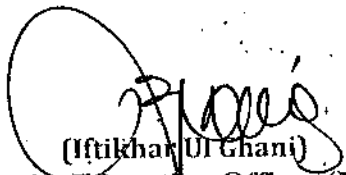
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**AFFIDAVIT**

I, Mr. Iftikhar Ul Ghani, District Education Officer (M) Abbottabad, do hereby affirm and declare on oath that the contents of forgoing reply are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.



  
 (Iftikhar Ul Ghani)  
 District Education Officer (M)  
 Abbottabad  
 (Respondent No. 02)

*[Handwritten signature]*

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Advocate: No Advocate  
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Hearing: Abbottabad  
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PKHTUNKHA SERVICE TRIBUNAL  
Case No: 10748  
Reply/Comments  
1726/2019  
Magsood Ahmad  
VS  
ESSE

04

Ans-A

**Establishment of Khyber Pakhtunkhwa Service Tribunal 503**

**Establishment of Khyber Pakhtunkhwa Service Tribunal**

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
SERVICES & GENERAL ADMINISTRATION DEPARTMENT  
(SERVICES WING)**

**NOTIFICATION**

Dated Peshawar, the 1st April, 1974

**No. SOI(S&GAD)3-120/74.**---In exercise of the powers conferred by Section 3 of the Khyber Pakhtunkhwa Service Tribunals Act, 1974 (N.W.F.P Act I of 1974), the Governor of the Khyber Pakhtunkhwa is pleased to establish the Khyber Pakhtunkhwa Service Tribunal, to exercise jurisdiction through out the Province, consisting of:

- |    |  |     |          |
|----|--|-----|----------|
| 1. | Mr. Mohammad Khurshid Khan   | ... | Chairman |
| 2. | Mr. Zafar Ali Khan,<br>Secretary Information Services<br>and General Administration Department | ... | Member   |
| 3. | Wazirzada Abdul Qayum,<br>Additional Commissioner,<br>Peshawar Division.                       | ... | Member   |

In pursuance of the provisions contained in sub-section (4) of section 3 aforesaid, the Governor of the Khyber Pakhtunkhwa is further pleased to direct that Mr. Zafar Ali Khan and Wazirzada Abdul Qayum, aforementioned Members, will perform duties on the Tribunal in addition to their own duties, whereas Mr. Mohammad Khurshid Khan, Chairman is appointed whole-time. He will enjoy the same terms and conditions as are available to him on his present assignment.

**Khyber Pakhtunkhwa  
Service Tribunals Rules, 1974**

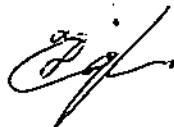
[Gazette of Khyber Pakhtunkhwa, Extraordinary, Page No. 224-227, 20<sup>th</sup> September, 1974]

**No. SOS-III (S&GAD) 1-79/73, dated 02-08-1974.**---In exercise of the powers conferred by section 11 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974), the Governor of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:--

**1. Short title and commencement.**---(1) These rules may be called the Khyber Pakhtunkhwa Service Tribunals Rules, 1974.

(2) They shall come into force at once.

**2. Definitions.**---In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them,



Service Tribunals Rules, 1974

objections not set forth in the memorandum of appeal, but the Tribunal, in deciding, the appeal shall not be confined to the grounds of objections set forth in the memorandum of appeal or taken by leave of the Tribunal under these rules:

Provided that the Tribunal shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting the appeal on that ground.

17. **Notice Board.**---(1) A cause list shall be prepared under the orders of the Registrar, which shall be affixed on the notice board of the court room of the Tribunal.

(2) Except as otherwise directed by the Tribunal, cases to be set down in the cause list shall be in the order of the date of admission.

18. **Hearing of Appeal.**---(1) On the day fixed, or on any other day to which the hearing may be adjourned, the appellant or his advocate shall be heard in support of the appeal.

(2) The Tribunal shall then, if it does not dismiss the appeal at once, hear the respondent or his advocate against the appeal and in such case, the appellant shall be entitled to reply.

19. **Dismissal of Appeal on failure to appear by the parties.**---(1) Where on the day fixed for the hearing of an appeal or any other day to which the hearing may be adjourned the appellant or his counsel, if any, does not appear when the appeal is called for hearing, the Tribunal may make an order that the appeal is dismissed.

(2) Where the appellant or his counsel, if any, appears and the respondent or his counsel, if any, does not appear the appeal shall be heard ex-parte.

(3) Where an appeal is dismissed under sub-rule (1) or an ex-parte order made under sub-rule (2), the Tribunal may for sufficient cause on an application made within 15 days restore the appeal or as the case may be set aside the ex-parte order on such terms as to costs or otherwise as it thinks fit to impose.

Provided that no order of restoration of an appeal dismissed in default or setting aside the ex-parte order shall be made unless notice of the application has been served on the opposite party.]

20. **Adding Respondent.**---When it appears to the Tribunal at the hearing that any person had not been made a respondent in the appeal is interested in the result of the appeal, the Tribunal may adjourn the hearing to a further day to be fixed by the Tribunal and direct that such person be made respondent.

21. **Pronouncement of Order.**---The Tribunal shall pronounce order in open court, either at once on the conclusion of arguments or on some future date of which notice shall be given to the parties or their advocates.

22. **Order regarding costs, etc.**---(1) The Tribunal may make such order as to the costs of proceedings before it as it deems fit.

1. Rule-19 substituted by Notification No. SORI(S&GAD)4-2/82, dated 04-06-1985

07

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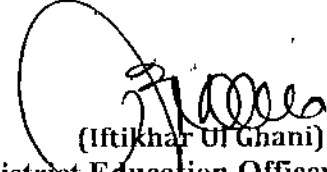
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**AUTHORITY LETTER**

*Mr. Sohail Ahmed Zeb, Legal Representative, District Education Office  
(M) Abbottabad do hereby authorized to submit Reply in the subject titled Restoration  
Application on behalf of respondents.*



(Iftikhar Ul Ghani)  
District Education Officer (M)  
Abbottabad.  
(Respondent No. 02)





**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR**

**NOTIFICATION**

I, Samina Altaf, Director Elementary & Secondary Education Department Khyber Peshawar do hereby authorize, Mr. Abdus Sammiad, Deputy Director (Legal) Directorate of Elementary & Secondary Education to sign parawise comments, replies, implementation report, objection petitions, civil miscellaneous application etc on my behalf for onward submission before the courts of law/tribunals as the case may be, with immediate effect in the interest of public service.

**DIRECTOR**

Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

Order No. 91.37-413 / No. AD(LR-II)/E&SE/D/Office Correspondence/Vol-II/2024  
Dated Peshawar the 26/07/2024.

Copy of the above is forwarded for information & action to the:

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department Khyber Pakhtunkhwa.
4. Learned Registrar High Court Peshawar (with one each spare copy for the Honorable Judges).
5. Learned Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar (with one each spare copy for the Honorable Chairman/Members).
6. All Section Officers E&SE Department Khyber Pakhtunkhwa, Peshawar.
7. All District Education Officer (Male/Female) Khyber Pakhtunkhwa.
8. PS to Secretary E&SE Department Khyber Pakhtunkhwa, Peshawar.
9. PA to Additional Secretary (General) E&SE Khyber Pakhtunkhwa, Peshawar.
10. PA to Director E&SE Department Khyber Pakhtunkhwa, Peshawar.
11. Master File.

  
SAMINA ALTAF  
DIRECTOR

Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar