

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

Restoration Application No. 779/2024

In

Service Appeal # 7900/2024

Muhammad Rafiq Khattak.....Appellant.

VERSUS

Govt: of Khyber Pakhtunkhwa & others.....Respondents.

**INDEX**

S#	Description of Documents	Annex	Pages
1.	Para-wise comments/reply		1
2.	Affidavit		2
3.	Authority Letter		3
4.	Annexures	A-D	4-8

  
Deponent

①

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

Khyber Pakhtunkhwa  
Service Tribunal

R.A No# 779/2024 in S.A No.7900/2021

Case No. 16586

Muhammad Rafiq Khattak.....Appellant

23/07/2024

**VERSUS**

Secretary, Govt: of Khyber Pakhtunkhwa E&SE Department & Others..... Respondents.

**REPLY ON BEHALF OF RESPONDENTS IN RESPECT OF RESTROTION APPLICATION NO.779/2024**

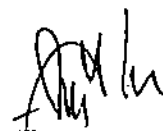
Respectfully Sheweth,

The Respondents seeks dismissal of the instant Restoration Application on the following grounds:-

- 1 That the appellant filed Service Appeal No.7900/2021 with the title "Muhammad Rafiq Khattak Vs Chief Secretary, Khyber Pakhtunkhwa and Others.
- 2 That earlier the above-titled Service Appeal was dismissed in default vide this Honorable Service Tribunal Order dated 05.01.2023 (Annex-A).
- 3 That the appellant after that the appellant filed Restoration Application No.35/2023 (Annex-B) which was got restored vide Honorable Service Tribunal Order dated 24.02.2023 (Annex-C).
- 4 That the service appeal No.7900/2021 was once-again was dismissed in default vide this Honorable Service Tribunal vide Order dated 06.06.2024. (Annex-D).
- 5 That as the service appeal under discussion have twicely been dismissed by this Honorable Service Tribunal, therefore, acceptance of the instant restoration application No.779/2024 is tantamount to wastage precious time of this Honorable Tribunal and the answering respondents. From the aforementioned facts and record it can easily be established that the conduct of the appellant is estopped to sue/file the instant restoration application and is liable to dismissed in favor of the department.
- 6 That the instant application has been field on 23.07.2024 while the service appeal was dismissed on default vide order dated 06.06.2024, hence the application in hand is time bared & liable to be dismissed on this ground too.

**PRAYER**

It is therefore, most humbly requested that Restoration Application No.779/2024 may kindly be dismissed with cost.



(Fiaz Alam)

Additional Secretary (Estab)

On behalf of

Secretary, E&SED.

(Respondent No.01& 02)

2

**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

Restoration Application No. 779/2024

In

Service Appeal # 7900/2021

Muhammad Rafiq Khattak..... Appellant

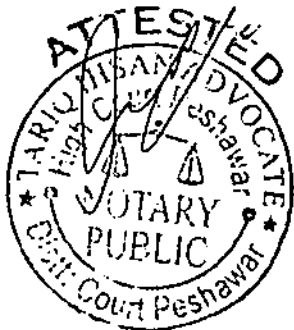
VERSUS


Secretary E&SE Govt. of Khyber Pakhtunkhwa & others..... Respondents

**AFFIDAVIT**

I, Fiaz Alam, Additional Secretary (Estab), Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying reply in Restoration Application, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further, stated on oath that in this appeal the answering Respondents have neither been placed ex-parte nor has their defense been struck off.



  
(Fiaz Alam)  
Additional Secretary (Estab)  
E&SE Department  
on behalf of  
SECRETARY E&SED  
(Respondent No. 01&02)

3



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

*Block "A" Civil Secretariat, Peshawar*

*Phone No. 091-9211128*

**AUTHORITY LETTER**

It is certified that **Mr. Sajid Ullah, Section Officer (Litigation-II)** Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Peshawar is hereby authorized to submit reply on behalf of Secretary Elementary & Secondary Education Department Peshawar Restoration Application No. 779/2024 in Service Appeal # 7900/2024 Case Titled **Muhammad Rafiq Khattak vs Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar & Others.**

A handwritten signature in black ink, appearing to read 'Fiaz Alam'.

**(Fiaz Alam)**

**Additional Secretary (Estab)  
E&SE Department  
on behalf of  
SECRETARY E&SED  
(Respondent No. 01&02)**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

Dated Peshawar, the 27-08-2024.

**NOTIFICATION**

**NO.SO(Lit-II)/E&SED/1-5/2021.** I, Mr. Masood Ahmad, Secretary Elementary & Secondary Education Department is pleased to authorize Mr. Fiaz Alam, Additional Secretary (Establishment) Elementary & Secondary Education Department to sign parawise comments, replies, implementation reports, objection petitions, civil miscellaneous applications etc on my behalf for submission before various courts of law/tribunals in the best public interest.

(MASOOD AHMAD)  
SECRETARY TO THE  
GOVERNMENT OF KHYBER PAKHTUNKHWA

**Endst: of even No. & date.**

Copy forwarded to the:-

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department.
4. Registrar Peshawar High Court Peshawar (with one each Spare copy for the Honorable Judges).
5. Registrar Service Tribunal Peshawar (with one each Spare copy for the Honorable Chairman/Members).
6. All Section Officers (Litigation) E&SE Department.
7. PS to Secretary, E&SE Department.
8. PA to Additional Secretary (General) E&SE Department.
9. PA to Deputy Secretary (Legal-I&II) E&SE Department.

SECTION OFFICER (Lit-II)

13.10.2022

Learned counsel for the appellant present. Mr. Faheem Khan, Assistant alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant requested that as he has applied for obtaining copies of certain documents by filing application through RTI, therefore, short adjournment may be granted to him. Adjourned. To come up for arguments before the D.B on 31.10.2022.

Learned counsel for the appellant requested for copies of certain application through RTI, therefore, short adjournment may be granted to him. Adjourned. To come up for arguments before the D.B on 31.10.2022.

(Mian Muhammad)

(Salah-ud-Din)

Learned counsel for the appellant requested for copies of certain application through RTI, therefore, short adjournment may be granted to him. Adjourned. To come up for arguments before the D.B on 31.10.2022.

(Mian Muhammad)

(Salah-ud-Din)

31.10.2022

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments.

Adjourned. To come up for arguments before the D.B on

17.11.2022.

(Mian Muhammad) Member (E)

(Salah-ud-Din) Member (J)

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(Annex - B)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Restoration Application No. 35 /2023

In

Service Appeal No. 7900/2021

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 3032

Dated 17-1-2023

Muhammad Rafiq Khattak, Ex- Director, Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.

... (Applicant)

VERSUS

1. The Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and  
others.

... (Respondents).

APPLICATION FOR RESTORATION OF SERVICE APPEAL NO.  
7900/2021, DISMISSED IN DEFAULT ON 05.01.2023.

RESPECTFULLY SHEWETH

FACTS:

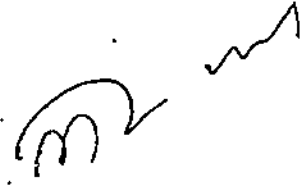
1. That the above mentioned service appeal was fixed for arguments before the D.B on 17.11.2022, on which date, lawyers were on strike and it was adjourned to 05.01.2023.
2. That on 05.01.2023, learned counsel for the appellant was busy in the Khyber Pakhtunkhwa Bar Council while the appellant was seriously ill and the appeal was dismissed in default. Certified copy of order is attached.
3. That absence of the appellant as well as his learned counsel was not intentional but due to the reason mentioned above.
4. That the application is within time and in the interest of justice, the appeal is liable to be restored.

A. H. H. H.  
M. S. S.

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It is, therefore, requested that on acceptance of the instant application, Service Appeal No. 7900/2021 may very kindly be restored and fixed for regular hearing.

Attested  
Muz



(Muhammad Rafiq Khattak)  
Applicant.



7

( Annex - C )

24.02.2023

Petitioner present through counsel.

Muhammad Jan learned District Attorney for respondents present.

Arguments on application seeking restoration of main appeal heard. Record perused.


Application in hand was submitted on 17.01.2023 for restoration of main service appeal which was dismissed in default vide order dated 05.01.2023.

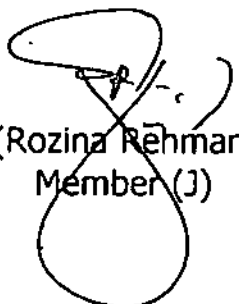
It was submitted by the learned counsel for petitioner that on the date of hearing he was busy in Khyber Pakhtunkhwa Bar Council while the petitioner was unable to attend the Tribunal due to illness. Therefore, upon calling of the case, none appeared on behalf of petitioner due to the reason mentioned above and requested for restoration of the instant service appeal.

Learned District Attorney shows no objection on acceptance of the instant application seeking restoration of main appeal.

In view of the above, instant application being well within time, is hereby accepted and the main service appeal stands restored. It be registered. This petition be consigned while main appeal be fixed for arguments on 24.04.2023 before D.B.

Attested  
District Attorney

  
(Muhammad Akbar Khan)  
Member (E)

  
(Rozina Rehman)  
Member (J)

15<sup>th</sup> May, 2024 1. Junior counsel for the appellant present. Mr. Umair Azam, Additional Advocate General for the respondents present.

2. Junior to counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 06.06.2024 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)  
Member (E)

(Kalim Arshad Khan)  
Chairman

SC  
K. B. T.  
Peshawar

\*kamm\*

ORDER

6<sup>th</sup> June, 2024

Kalim Arshad Khan, Chairman: Nobody present on behalf of the appellant. Mr. Arshad Azam, Assistant Advocate General 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 in Peshawar and given under our hands and seal of the Tribunal this 6<sup>th</sup> day of June, 2024.*

\*Adnan Shuh, P.A.\*

(Fareeha Paul)  
Member(E)

(Kalim Arshad Khan)  
Chairman