


Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 1180/2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	14.10.2024	<p>The application for restoration of Service appeal No. 2353/2023 submitted today by Mr. Bashir Khan Wazir Advocate. It is fixed for hearing before Division Bench at Peshawar on 18.10.2024. Original file be requisitioned. Parcha Peshi given to counsel for the applicant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

R.A
GM No. 1180 /2024

In Re:

Service Appeal No. 2353/2024

Anwar Zeb.....Appellant


V E R S U S

IGP, KPK & others.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Application for restoration		1-3
2.	Affidavit		4
3.	Copy of Order dated 09.10.2024	A	5-16

Applicant/ Appellant
Through


BASHIR KHAN WAZIR
Advocate, High Court
At District Courts Kohat

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BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

R.A
EM No. 1180 /2024

In Re:

Service Appeal No. 2353/2023

Anwar Zeb Ex-Constable No. 152, District Police Bannu
R/o Hibak Sherza Khan Kotka Doulat Khan Surani
Bannu.

.....Appellant

V E R S U S

1. Inspector General of Police Khyber
Pakhtunkhwa, Peshawar
2. Regional Police Officer Bannu.
3. District Police Officer Bannu.

.....Respondents

APPLICATION FOR RESTORATION OF
THE ABOVE TITLED APPEAL DISMISSED
IN DEFAULT ON 09.10.2024.

Respectfully Sheweth:

1. That the above titled Appeal was fixed before this
Hon'ble Tribunal on 09.10.2024.

2. That the counsel of the Appellant file an Application for fixation of above titled Appeal before this Hon'ble Tribunal Principal Bench, the Application of the Appellant was accepted, but neither any notice nor any summon was issued to the Appellant as well as to the counsel for the fixation of the case before this Hon'ble Tribunal and later on the counsel came to know that the case was fixed and was dismissed in default for non-prosecution on 09.10.2024. **(Copy of Order dated 29.08.2024 is attached)**

3. That the applicant wants the restoration of the titled Appeal for the following amongst other.

GROUND:

- A. That the absence of the Appellant was neither willful nor intentional.
- B. That valuable rights of the Appellant are involved in the case in question.
- C. That the law otherwise favours the decision of cases on merit.
- D. That the application is within time.

E. That there is no legal bar on acceptance of the instant Application.

F. That any other ground will be raised at the time of arguments with prior permission of this Hon'ble Court.

It is, therefore, requested that by accepting this application the Appeal in question may be restored to its original number in the interest of justice.

Applicant/ Appellant
Through



BASHIR KHAN WAZIR
Advocate, High Court
At District Courts Kohat

4/

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

CM No. _____/2024

In Re:

Service Appeal No. 2353/2023

Anwar Zeb.....Appellant

V E R S U S

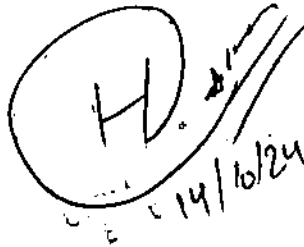
IGP, KPK & others.....Respondents

AFFIDAVIT

I, Anwar Zeb Ex-Constable No. 152, District Police Bannu R/o Hibak Sherza Khan Kotka Doulat Khan Surani Bannu, do hereby solemnly affirm and declare that the contents of the Instant **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

انور زيب

D E P O N E N T



5

BEFORE THE LEARNED KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No 2353 /2023

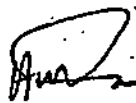
Anwar ZebAppellant

VERSUS

IGP & others..... Respondents

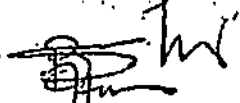
I N D E X

S.NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal		1-6
2.	Affidavit		7
3.	Application for condonation of delay		8-9
4.	Affidavit		10
5.	Copy of the Order dated 26.01.2023.	A	11
6.	Copy of the Appeal and order dated 30.05.2023	B	12-13
7.	Copy of the Order dated 26.10.2023	C	14
8.	Copy of Departmental Appeal	D	15
9.	Wakalat Nama		16


Appellant

Through:

Dated: 03.11.2023


BASHIR KHAN WAZIR
Advocate
High Court Peshawar



BEFORE THE LEARNED KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No 2353 /2023

Khyber Pakhtunkhwa Service Tribunal

Diary No. 8956

Dated 03-11-2023

Anwar Zeb Ex-Constable No. 152, District Police Bannu R/o Hibak Sherza Khan Kotka Doulat Khan Surani Bannu.
.....Appellant

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar
2. Regional Police Officer Bannu.
3. District Police Officer Bannu.

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED OFFICE ORDER DATED 26.01.2023 WHEREBY THE APPELLANT WAS IMPOSED MAJOR PENALTY OF "DISMISSAL FROM SERVICE" AGAINST WHICH THE DEPARTMENTAL APPEAL WAS FILED BY THE APPELLANT WHICH WAS TOO DISMISSED VIDE DATED 30.05.2023 WHICH WAS COMMUNICATED TO THE APPELLANT ON DATED 27.07.2023 AND THE SAME WAS CHALLENGED UNDER SECTION 11 (B) OF THE POLICE RULES IN REVISION WHICH WAS ALSO DISMISSED VIDE DATED 26.10.2023.

Prayer in Appeal:


On acceptance of this Appeal, the Impugned Order dated 26.01.2023 Passed by the Respondent No 2 whereby the respondent No 3 imposed major penalty of Removal from Service of the Appellant may kindly be Set aside, declared illegal, without lawful authority and in consequence whereof the Appellant may graciously be reinstated with all back benefit.

ATTESTED
[Signature]
Khyber Pakhtunkhwa Service Tribunal
Peshawar
14-11-23

Respectfully Sheweth:-

The Appellant humbly submits as under:-

1. That the Appellant is the peaceful and law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973.
2. That briefly stated the fact relevant for the purpose of this Appeal are that the Appellant was appointed as Constable in the year 2004 in the Respondents Department and since then the Appellant was performing his duties with great zeal & zest and with full devotion with no complaint whatsoever by any means.
3. That the appellant was allegedly reported as absent from his duties on different occasions due to some unavoidable circumstances i.e sickness of his mother and also the appellant was suffering from severe pain, which was reported to the concerned officer but he without observing the unavoidable reasons of the appellant, he made report without any cogent proof.
4. That the impugned order dated 26.01.2023 was passed by the respondent No 3 without having been associated the appellant with the allegations and even no opportunity of being hearing has been given to the appellant and the major punishment was awarded on the ground of absence. **(Copy of the Order dated 26.01.2023 is attached)**
5. That the appellant while aggrieved from that order approached to the respondent No 2 by filing Departmental Appeal, within time which was also dismissed vide Order dated 30.05.2023, which was communicated to the appellant on 27.07.2023. **(Copy of the Appeal and order dated 30.05.2023 is attached)**
6. That the appellant approached under the relevant Rules of Rule 11(B) to the Competent Authority i.e Respondent No 1, while impugned the above mentioned Orders, which was also dismissed vide order dated 26.10.2023. **(Copy of the Order dated 26.10.2023 is attached)**

ATTESTED

 EX. OFFICER
 Khairpur Pakhtunkhwa
 Service Tribunal
 Peshawar

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B

7. That the appellant being aggrieved, filed Departmental Appeal before the concerned Authority, in which no order has been passed after lapse of statutory period. (Copy of Departmental Appeal is attached as annexure E)

8. That the Appellant feeling aggrieved from the acts of Respondents, having no other adequate and efficacious remedy, approaches this Hon'ble Tribunal, on the following grounds inter alia:

GROUND:-

A) That the Appellant is peaceful and law abiding citizens of Islamic Republic of Pakistan and are fully entitled to all the basic and fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.

B) That at the very outset, the Hon'able authority shall adjudge the absence of appellant as per following criteria.

- Whether the absence was willful/Intentional?
- Whether the civil servant / appellant is habitual absentee?
- Whether absence from duty requires subjective approach involving evidence?

- That the inquiry officer did not examine the absence charge in light of criterion as above, neither the worthy authority looked into reality and factuality as per justifications, stated here-in-after.

C. That the act of absence was beyond the control of appellant, as the unavoidable reasons has been mentioned in the facts being seriousness of mother of the appellant, therefore the same cannot be treated as intentional rather he was unable to attend the same due to severe pain in his body and it is worth to mention here that the period mentioned in the impugned Order is not to as the appellant was only

TESTED
M
EX/MINER
Tribunal
Peshawar

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MS

absent for few days and thereafter he reported but the concerned SHO was deliberately not allowing the appellant for duty.

D. That the Impugned orders are very harsh, arbitrary and against the norms of law / justice because the absence period was due his mother serious sickness and the same was not intentional or deliberate or as usual.

E. That as per leave balance record, the appellant has sufficient earned leave and such absence period though not deliberate or intentional, could be excluded as "double" from balance, envisaged Revised Leave Rules 1980/81.

F. That it is the consistence of the Hon'ble Apex Court that in such like cases the competent authority is to be conducted regular inquiry and to record statement of witnesses and to provide opportunity to being cross examination of that witnesses by the accused through himself or through counsel and thereafter fair opportunity of evidence to be given, but in fact in the present case even the witnesses recorded statement in favour of the appellant and the stance of appellant is very much supported by the witnesses who recorded their statement before the inquiry officer, the inquiry officer should have been exonerated the appellant in view of the statement of the witnesses, however the malafide biasness of inquiry officer is very much established, who awarded major penalty to the appellant which is liable to be set aside and the appellant is to be restored on his previous position with all back benefits.

G. That in the reported Judgment PLD 2008 SC 392, in the matter of awarding of major punishment, A full fledged inquiry is mandatory to be conducted in exercise of powers under section 3(1) of the removal from service Special power ordinance 2000. But in the present situation keeping in view the above fact and circumstances the inquiry officer thus contrarily went beyond the scope of examine the real controversy. Reduction in Rank constituted major penalty and Reward full Fledge inquiry and inquiry could not be dispensed in term of section 5 (4) of the Removal from Service (Special Power) Ordinance 2000.

TESTED

EX. W/1000
S. H. Khan
Vice-Chief
Inspector

O. That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.


PRAYER:-

It is, therefore, most humbly prayed that, On acceptance of this Appeal, the Impugned Order dated 26.01.2023 Passed by the Respondent No 2 whereby the respondent No 3 imposed major penalty of Removal from Service of the Appellant may kindly be Set aside, declared illegal, without lawful authority and in consequence whereof the Appellant may graciously be reinstated with all back benefit.


Appellant

Through:

Dated: 03.11.2023.


BASHIR KHAN WAZIR
Advocate
High Court Peshawar

NOT TESTED

J. M. MINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

**BEFORE THE LEARNED KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No _____/2023

Anwar ZebAppellant

VERSUS

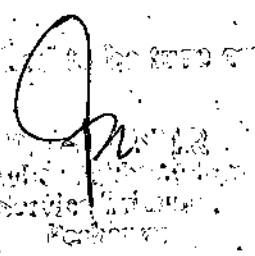
IGP & others..... Respondents

AFFIDAVIT

I, Anwar Zeb Ex-Constable No. 152, District Police Bannu R/o Hibak Sherza Khan Kotka Doulat Khan Surani Bannu, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



DEPONENT



14-10-24

Munshi Raza
Oath Commissioner
Enrol. No. 227075 13/11/22

Khyber Pakhtunkhwa Service Tribunal, Peshawar
Application No. 89
Date of Filing 14-10-24
Name of Applicant M. Lagman
Number of Pages 35/-
Filing Fee 5/-
Urgent/Ordinary
Total
14-10-24
14-10-24


ORDER
9th Oct, 2024

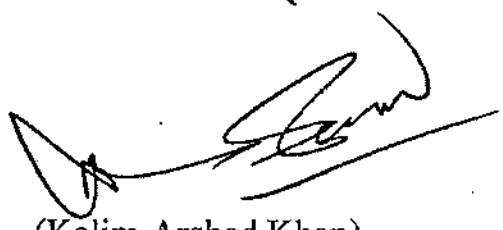
Kalim Arshad Khan, Chairman: Nobody present on behalf of the appellant. Mr. Muhammad Jan, District Attorney for the respondents present.

2. This 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 9th day of October, 2024.*


(Fareeha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman

Adnan Shah, P.A.


14-10-24
Urgent
Total

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14-10-24

14

BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

CM No. _____/2024

Khyber Pakhtunkhwa
Service Tribunal

In the matter of

Case No. 12110

Service Appeal No. 2353/2023

Dated 04-04-24

Anwar Zeb Ex-Constable No. 152, District Police Bannu R/o Hibak Sherza Khan Kotka Doulat Khan Surani Bannu.

.....Appellant

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar
2. Regional Police Officer Bannu.
3. District Police Officer Bannu.

.....Respondents

APPLICATION FOR FIXATION OF THE SERVICE APPEAL BEFORE THE PRINCIPAL SEAT OF HON'BLE SERVICE TRIBUNAL, AS THE APPELLANT BEING THE OLD AGE AND HE IS ATTACHED TO PERFORM HIS DUTY WITH THE OFFICE OF RESPONDENT NO 1, THE MAIN RESPONDENTS ARE ALSO PRESENT IN THE JURISDICTION OF PRINCIPAL SEAT, MOREOVER IT IS THE CONVENIENT FOR THE APPELLANT TO PURSUE THE CASE AT PRINCIPAL SEAT OF THE HON'BLE SERVICE TRIBUNAL.

Respectfully, Sheweth:

1. That the above titled Service Appeal has been filed by the appellant before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
2. That the instant Appeal was filed before this Hon'ble Tribunal at Principal Bench Peshawar and the same was fixed for preliminary hearing and after heard the counsel for the Appellant, this Hon'ble Tribunal has noticed the case and reply was sought from the respondent and the case was fixed twice before this Hon'ble Tribunal and even the convenient of the Appellant as well as the counsel for the hearing of the Appeal at Principal Bench at Peshawar.

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processed.*

- 15
3. That the main respondents against which the appellant was aggrieved are also comes within the jurisdiction of the Principal Bench of this Hon'ble Tribunal.
 4. That there is no legal bar on acceptance of this Application.

It is, therefore, most humbly prayed that on acceptance of this Application, directions may kindly be issued to entertain the Appeal before this Hon'ble Tribunal at principal bench which is convenient for the appellant / Applicant.

[Signature]
Appellant / Applicant

Through

Dated: 04.04.2024

[Signature]
BASHIR KHAN WAZIR
Advocate, High Court
Peshawar

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**BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR**

CM No. _____/2024

In the matter of

Service Appeal No. ~~2023~~ 2023

2353/2023

Anwar Zeb Ex-Constable No. 152, District Police Bannu R/o Hibak Sherza Khan Kotka Doulat Khan Surani Bannu.

.....Appellant

VERSUS

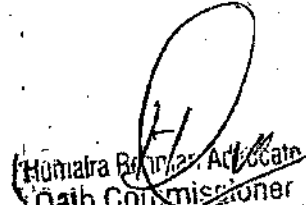
1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar
2. Regional Police Officer Bannu.
3. District Police Officer Bannu.

.....Respondents

AFFIDAVIT

I, Anwar Zeb Ex-Constable No. 152, District Police Bannu R/o Hibak Sherza Khan Kotka Doulat Khan Surani Bannu, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT


Hon'ble Oath Commissioner
Distt. No. 5370-75
9/4/2024