


Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 1178/2024

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. 7499/2021 submitted today by Mr. Asad Zeb Khan 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  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

P.A

C.M No. 1178/2024

In

Service Appeal No.7499/2021

Arshid. APPLICANT/APPELLANT

VERSUS

Superintendent Engineer & another. RESPONDENTS

I N D E X

S.#	Description of Documents	Annex	Pages
1.	Restoration Application alongwith Affidavit		1-3
2.	Attested Copy of the Order Sheet dated 18.09.2024		4-9

ارشید

Applicant/Appellant

Through



Asad Zeb Khan

Advocate High Court

Dated: 12.10.2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M No. 1178/2024

In

Service Appeal No.7499/2021

Arshid S/o Umar Din
R/o Street No.13, Bar Kanday,
Mughal Baz Road, Baghdada, Mardan.

Presently serving as **Beldar**,
Mardan Irrigation Division, Mardan...**APPLICANT/APELLANT**

VERSUS

1. Superintendent Engineer,
Mardan Irrigation Circle,
Mardan.
2. Executive Engineer,
Mardan Irrigation Circle,
Mardan.**RESPONDENTS**

**APPLICATION FOR RESTORATION OF TITLED
APPEAL WHICH WAS DISMISSED FOR NON-
PROSECUTION, BY THIS HON'BLE TRIBUNAL,
ON 18.09.2024.**

Respectfully Sheweth:

1. That the titled appeal was pending before this Hon'ble Tribunal and was dismissed for non-prosecution, on 18.09.2024. (Attested Copy of the Order is attached).
2. That on 18.09.2029, the appellant as well as his counsel, both were present before this Hon'ble Tribunal, but during course of hearing of some other appeals, the Hon'ble Bench took a break and later on it was communicated to the appellant's counsel

that the Hon'ble Chairman left the court for attending the funeral of a relative and appellant was informed that the next date will be communicated to him online.

3. That despite waiting for considerable time, when no message was received to the appellant, he rushed to this Hon'ble Tribunal, where he was informed that his appeal has been dismissed for non-prosecution, hence this application.
4. That the absence of the appellant or his counsel was neither deliberate nor intentional, but due to the reason mentioned above. Moreover, valuable rights of the appellant are involved in the instant appeal, and its decision on merits is the need of hour.
5. That there is no legal bar on acceptance of the instant application, rather it would be in the interest of justice to do so.

It is, therefore, most humbly prayed that on acceptance of this application, the above titled appeal may please be restored to its original number and be decided on merits.



Applicant/Appellant

Through



Asad Zeb Khan
Advocate High Court

Dated: 12.10.2024

(3)

**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR.**

C.M No. _____/2024

In Amended Service Appeal No: _____ of 2021

Arshad S/O Umar Din, Beldar (Mate), Mardan Irrigation Division,
Mardan. R/O Street No. 13, Bar Kanday, Mughal Baz Road, Baghdada,
Mardan _____ Appellant

VERSUS

1. Superintending Engineer

Mardan Irrigation Circle, Mardan.

2. Executive Engineer

Mardan Irrigation Division, Mardan.

_____ Respondents

AFFIDAVIT

I, **Arshad S/O Umar Din**, Beldar (Mate), Mardan Irrigation Division,
Mardan. R/O Street No. 13, Bar Kanday, Mughal Baz Road, Baghdada, Mardan,
do hereby solemnly affirms and declare upon oath that the contents of the
instant application are true and correct to the best of my knowledge and
belief and nothing has been kept concealed or with-held from this Hon'ble
Tribunal.

ارشاد
Deponent

16/10-8362055-9.



(4)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. _____/2021

Arshid S/o Umar Din R/o Street Mohallah No 13, Bar Kanday
Mughal Baz Road, Bughdada P.O Mardan

..... Appellant

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary (E&SE), Department Khyber Pakhtunkhwa Peshawar.
3. The Secretary Finance Department Khyber Pakhtunkhwa, Peshawar.
4. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
5. The Director (E&SE), Department Khyber Pakhtunkhwa, Peshawar.

..... Respondents

ATTESTED

07-10-2024

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ACTION OF
THE RESPONDENTS BY ILLEGAL AND
UNLAWFUL DEDUCTING THE CONVEYANCE

5

**ALLOWANCE OF THE APPELLANT DURING
WINTER & SUMMER VACATION AND
AGAINST NO ACTION TAKEN ON THE
DEPARTMENTAL APPEAL OF APPELLANT
WITHIN THE STATUTORY PERIOD OF
NINETY DAYS.**

It is, therefore, most humbly prayed that on acceptance of this Appeal;

- a) The Impugned Order may be declared as illegal and unlawful.
- b) The impugned order may graciously be set aside and Appellant may be reinstated in service with all back benefits.
- c) Any other remedy deems fit and appropriate in the circumstances of the case may also be granted in favour of the Appellant.

Respectfully Sheweth:

FACTS:

1. Tat the Appellant was appointed as Bidder on 06.06.1988 in Irrigation Department.

2. That there was an inquiry against one Saleem Khan, Junior Clerk of the Department and in culmination of

ATTACHED
Khan
Service Tribunal
Peshawar

②

inquiry, the Appellant was compulsorily retired from the Government Service vide order dated 10.11.2020. (Copy of Order, Inquiry report and Statement of the Appellant during inquiry are attached as annexure A to C respectively)

3. That thereafter Appellant filed Departmental representation which was dismissed vide order dated 30.12.2020. (Copy of Departmental Appeal and Order dated 30.12.2020 is attached as annexure D)

4. That thereafter Appellant under misconception filed a Writ Petition against the Order in Appeal which was withdrawn vide Order dated 15.09.2021. (Copy of the Writ Petition and order is attached as annexure E)

Now Feeling aggrieved of the above order dated 30.12.2020, this Appeal on following grounds inter alia:-

G R O U N D S:

A. That the order is illegal, unlawful and hence needs interference.

B. That the order in question is a result of haste and mal approach, thus needs to be interfered.

C. That there was no inquiry pending against the Appellant, thus imposition of major penalty is not maintainable.

ATTESTED

EX MINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

7

D. That the findings of inquiry are based on contradictory statements, whiteout any supporting evidence, hence needs to be set aside.

E. That the mode and manner in which the impugned Order was passed amounts to infringement of fundamental rights of the Appellant.


F. That any other grounds will be raise at the time of arguments with prior permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that on acceptance of this Appeal;


- a) The Impugned Order may be declared as illegal and Unlawful.
- b) The impugned order may graciously be set aside and Appellant may be reinstated in service with all back benefits.
- c) Any other remedy deems fit and appropriate in the circumstances of the case may also be granted in favour of the Appellant.

Through
Dated: 02.10.2021

Appellant


S. SHAKIL KHAN GILLANI
Advocate, High Court
Peshawar

Note:
Another Appeal arising out of same inquiry titled "Saleem Khan VS Govt" is fixed for 05.10.2021.

ATTESTED

EXAMINER
Hyber Pakhtunkhwa
Service Tribunal
Peshawar

No.

8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2021

Arshid..... Appellant

VERSUS

The Government of KPK & others Respondents

AFFIDAVIT

I, Arshid S/o Umar Din R/o Street Mohallah No 13, Bar Kanday Mughal Baz Road, Bughdada P.O Mardan, 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.



Handwritten signature and date: 2-10-21

DEPONENT

Certified to be true copy
EX-MINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
07-10-2024

Date of Presentation of Application	07-10-2024
Number of Words	5-8
Copying Fee	25/-
Urgent	5/-
Total	30/-
Name of Copyist	
Date of Copying	07-10-2024
Date of Deposition	07-10-2024

ORDER


18th Sept, 2024

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



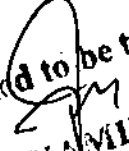
2. Case was called several times but neither appellant nor his counsel turned up before the Tribunal, till its rising. Therefore, the appeal in hand is dismissed in default. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 18th day of September, 2024.*


(Muhammad Akbar Khan)
Member(E)


(Kalim Arshad Khan)
Chairman

Adnan Shah, P.A.

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal.
Peshawar
07-10-2024

Date of Presentation of Application	07-10-2024
Number of Words	1-P
Copying Fee	5/-
Urgent	5/-
Total	10/-
Name of Copyist	
Date of Copying	07-10-2024
Date of Delivery of Copy	07-10-2024