


Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 1168/2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.10.2024	<p>The application for restoration of Service appeal No.871/2023 received today by registered post through Mr. Muhammad Riaz Advocate. It is fixed for hearing before touring Single Bench at A.Abad on 30.10.2024. Original file be requisitioned. Counsel for the appellant has been informed telephonically.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

a

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

CM No. 1168 /2024

IN

Service Appeal No. 871-A/2023

Mst. Bibi Fahmeeda.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa & others.

...RESPONDENTS

RESTORATION APPLICATION

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2.	Copy of order dated 25.07.2024	4 to //	"A"



...APPELLANT

Through

Dated: 05.10.2024


(MUHAMMAD RIAZ)
Advocate High Court, Abbottabad

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

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16622

Dated 11-10-24

R.A. No. 1168/2024

CM No. _____ /2024

IN

Service Appeal No. 871-~~A~~/2023

Mst. Bibi Fahmeeda.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa & others.

...RESPONDENTS

SERVICE APPEAL

**APPLICATION SEEKING RESTORATION OF TITLED
SERVICE : APPEAL, DISMISSED FOR NON-
PROSECUTION BY THIS HONOURABLE TRIBUNAL
VIDE ORDER DATED 25.07.2024.**

Respectfully Sheweth: -

1. That the titled service was pending adjudication before this Honourable Tribunal and was fixed for 25.07.2024.
2. That on 25.07.2024 this Honourable Tribunal has been pleased to dismiss the titled service appeal in default of appearance. Copy of order dated 25.07.2024 is annexed as Annexure "A".

3. That on the date fixed clerk of counsel for the appellant was appeared before this Honourable Tribunal while counsel for the appellant was busy before Peshawar High Court, Abbottabad Bench due to which he could not appear before this Honourable Tribunal.
4. That the absence was not willful or deliberate but due to the above said reason.
5. That the valuable rights of appellant are involved and in case the titled service appeal is not restored, it would cause irreparable loss to the appellant.
6. The applicant is well within time.

It is, therefore, very humbly prayed that on acceptance of the instant application, titled service appeal may graciously be restored in the highest interest of justice.

Dated: 05.10.2024

Through


...APPELLANT


(MUHAMMAD RIAZ)
Advocate High Court, Abbottabad

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

CM No. _____/2024

IN

Service Appeal No. 871-~~A~~/2023

Mst. Bibi Fahmeeda.

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VERSUS

Govt. of Khyber Pakhtunkhwa & others.

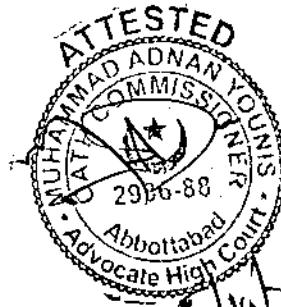
...RESPONDENTS

RESTORATION APPLICATION

AFFIDAVIT

I, Mst. Bibi Fahmeeda Ex-Primary School Teacher Posted at GGPS Bhati Kuz Sherial Tehsil Pallas, District KP Kohistan, do hereby solemnly affirm and declare on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

S. Bibi Fahmeeda
DEPONENT



5/10/24

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BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 871 of 2022

Mst. Bibi Fahmeeda, Ex-Primary School
Teacher Posted at GGPS, Bhati, Kuz Sherial,
Tehsil Pallas, District KP Kohistan.

.....Appellant

VERSUS

- 1) The, Government of Khyber Pakhtunkhwa through secretary elementary and secondary education Peshawar.
- 2) The, Director Elementary and secondary Education Peshawar.
- 3) The, District Education officer (Female) District KP Kohistan at Seir-Ghazi Abad.

.....Respondents

APPEAL UNDER SECTION 4 OF KPK
SERVICE TRIBUNAL, ACT, 1974
AGAINST THE IMPUGNED ORDERS NO
1198-1210 DATED 20.04.2019, And
8888-89 Dated 16.11.2022 PASSED BY
RESPONDENTS NO. 02 AND 03
RESPECTIVELY WHEREBY MAJOR
PENALTY OF REMOVAL FROM
SERVICE WAS IMPOSED UPON THE
APPELLANT AND UP HELD IN APPEAL.

ATTESTED
[Signature]

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

01-10-2024

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PRAYER:-

On acceptance of the instant service appeal, the impugned orders bearing No 1198-1210 dated 20.04.2019 and 8888-89 dated 16.11.2022, passed by Respondents No. 02 and 03 respectively may kindly be set-aside declaring them illegal, void and against the law on the subject and appellant be re-instated into service with all back benefits.

Respectfully Sheweth:-

1. That, appellant was appointed in a prescribed manner by competent authority against the post of Primary school Teacher vide appointment order dated 07.01.2005.

(Copy of appointment order dated 07.01.2005 annexed as Annexure "A").

2. That, all of a sudden, respondent No 03 without citing any reason and intimation straightaway, with a single stroke of pen imposed Major penalty of removal from service upon appellant w.e.f. 01.11.2017 on the ground of alleged unspecified absence from duty, vide impugned order No. 1198-1210 dated 20.04.2019.

(Copies of impugned order dated 20.04.2019 is annexed as Annexure "B").

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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3. That, appellant filed Departmental appeal against the impugned order dated 20.04.2019 before respondent No. 02 who vide letter/order dated 07.08.2019 called comments from respondent No. 03.

(Copy of letter/order dated 07.08.2019 is annexed as Annexure "C").

4. That, respondent No. 03 vide letter No. 8334 dated 12.12.2020 submitted comments to respondent No. 02, expressing no objection upon the reinstatement of the appellant.

(copy of letter dated 12.12.2020 annexed as annexure "D").

5. That, upon receiving the comments, respondent No. 02 kept the matter pending instead of reinstating the appellate into service as recommended by respondent No. 03. Ultimately, respondent No. 02 vide impugned order No. 8888-89 dated 16.11.2022 rejected the Departmental appeal of the appellant without citing any reason and providing an opportunity of hearing to the appellant.

(copy impugned order dated 16.11.2022 is annexed as annexure "E").

6. That, the felling aggrieved from the impugned orders, the appellant having

ATTESTED
Pr
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



no other remedy files the present service appeal before this Honourable Tribunal for interference inter alia, on the following amongst other grounds.

GROUND:-

- A) That, appellatant never remained absent as alleged and the entire illegal proceedings were carried out fictitiously, while sitting in office by respondent No 03 out of mala-fide.
- B) That, before imposing the impugned penalty, no publication as required **under rule 9 of E&D, Rules, 2011**, was ever made in the leading newspapers, commonly available in the District of the appellatant. The reference of news papers publication in the impugned order are not commonly available in the area of the appellatant, hence, the impugned order is wholly illegal, unlawful, without lawful authority and of having no legal effect.
- C) That, no show cause notice was ever issued to the appellatant and the entire proceedings were fictitiously conducted by respondent No 03 at the back of the appellatant.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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- D) That, no inquiry into the alleged allegations was ever conducted and the impugned penalty was imposed without getting the allegations proved in accordance with the law and Rules on the subject.
- E) That, before passing the impugned order, appellant was not put on notice to present her view point/explanation under the Doctrine of **AUDI AULTEM PARTEM**, hence, the impugned order is not sustainable and maintainable under the law on this very sole ground.
- F) That, appellant had a long unblemished service record at her credit. She has been removed from service with a single stroke of pen without observing due process of law and having the allegations proved.
- G) That, no complaint was ever filed by any one against the appellant for her being absent from duty as alleged on any working day with any authority.
- H) That, the Departmental appeal of the appellant was rejected by respondent No. 02 vide impugned order dated 16.11.2022 but reason what so ever, of the rejection has been mentioned therein nor any opportunity of hearing

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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was provided to the appellant before rejecting the appeal arbitrarily.

- I) That, the impugned orders on their very face value, are illegal, unlawful, without lawful authority, without jurisdiction and of having no legal effect.

PRAYER:-

On acceptance of the instant service appeal, the impugned orders bearing No 1198-1210 dated 20.04,2019 and 8888-89 dated 16.11.2022, passed by Respondents No. 02 and 03 respectively may kindly be set-aside declaring them illegal, void and against the law on the subject and appellant be re-instated into service with all back benefits.

Dated 15.12.2022

Mst Bibi Fahmeeda
Mst Bibi Fahmeeda
(Appellant)

Through:-

ABDUL SABOOR KHAN
ABDUL SABOOR KHAN
ADVOCATE HIGH COURT

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

VERIFICATION :

I, Mst. Bibi Fahmeeda, Ex-Primary School Teacher Posted at GGPS, Bhati, Kuz Sherial, Tehsil Pallas, District KP Kohistan, do hereby solemnly affirm and declare that the contents of fore-going Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this Honorable Tribunal.

MST. BIBI FAHMEEDA
MST. BIBI FAHMEEDA
(DEPONENT)

Date of Presentation of Application 29-07-2024
Number of Words 6-P
Copying Fee 30/-
Urgent -
Total 30/-
Name of Copyist -
Date of Completion 01-10-2024
Date of Delivery of Copy 01-10-2024

(11)
(1)



SA 871/23

25th July, 2024

01. Clerk of counsel for the appellant present. Mr. Arshad Azam, Assistant A.G for the respondents present.

02. Absolute last chance was given for arguments on office objections as well as preliminary hearing. Today neither appellant nor her counsel are present which indicates that they are not interested to pursue the case. The appeal is, therefore, dismissed. Consign.

03. Pronounced in open Court at Camp Court, Abbottabad and given under our hands and the seal of the Tribunal on this 25th day of July, 2024.

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
01-10-2024

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[Signature]

(Farzha Paul)
Member (E)
Camp Court, A/Abad

Fazle Subhan PS*

Date of Presentation of Application	29-07-2024
Number of Words	1/-
Copying Fee	5/-
Urgent	5/-
Total	
Name of Copyist	20-09-2024
Date of Copying	01-10-2024
Date of Delivery of Copy	

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Peshawar

5/10/24

ایم پی ایم

مقام:

مقدمہ: میں اپنی طرف سے ایک درخواست دیکھ رہا ہوں جس میں آپ نے درخواست کی ہے کہ میں اپنی خدمات کو آپ کے کاروبار کے لیے فراہم کروں۔

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اعتراف کرتا ہوں

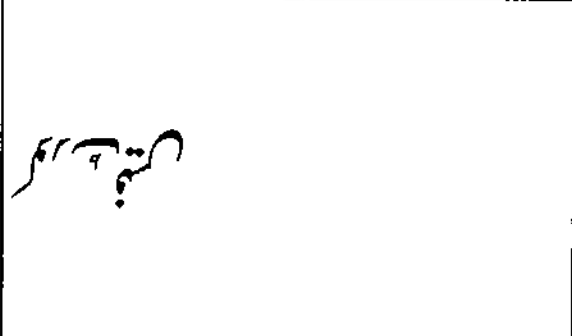
بہتر مفید ہے:

مخاطب:

Mgt. Bilal Mahmood

Govt of MP

Before the Service Tribunal



والتانہ

Mgt Bilal Mahmood