


Form-A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Restoration Application No. 1285 /2024**

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	24.10.2024	<p>The application for restoration of Service appeal No.1565/2023 submitted today by Mr. Hamad Hussain Advocate. It is fixed for hearing before Division Bench at Peshawar on 30.10.2024. Original file be requisitioned. Paracha Peshi given to counsel for the applicant.</p> <p>By order of the Chairman  REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Restoration Petition No. 285 /2024

In  
Service appeal No: 1565/2023

Shehzad Hassan, EXFC Elite Force

.....petitioner

VERSUS

The Provincial Police Officer KPK Peshawar and others.

**INDEX**

S.No.	Description of Documents	Annex	Pages
1.	Restoration application		1-2
2.	Affidavit		3
3.	Affidavit Order dated 08/10/2024	A	4-16

*Shehzad*  
Appellant

Through

*[Signature]*  
[HAMAD HUSSAIN]

Advocate High Court Mobile no.  
03120952763

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

①

Restoration Petition No. 1285/2024

Provincial Police Officer Khyber Pakhtunkhwa  
(Peshawar)

In

Service appeal No 1565/2023

Date 17/13/

Filed 24-10-24

Shehzad Hassan, EXFC Elite Force No 639/UT S/O Mir Hussan R/O Masho Khel  
Mahalla Goncha Khel Peshawar .....petitioner

VERSUS

1. The Provincial Police Officer KPK Peshawar.
2. The Additional inspector General of police, elite Force/ Commandant Elite Force police Khyber Pakhtunkhwa Peshawar
3. The Commandant Elite Force Police Khyber Pakhtunkhwa Peshawar
4. Deputy Commandant Elite Force police Khyber Pakhtunkhwa

**Respondents**

**APPLICATION FOR RESTORATION OF ABOVE TITLED SERVICE APPEAL  
WHICH WAS DISMISSED ON 8/10/2024 FOR NON IN DEFAULT AS WELL  
AS NOT DEPOSITED OF SECURITY FEES**

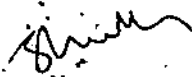
Respectfully Sheweth:

1. That the above titled service appeal was pending before this Service tribunal which was fixed for 08/10/2024.
2. That on the dated fixed i.e. 08/10/2024 the counsel of the appellant was going to this Hon,ble court when on the way suddenly suffering from food poisoning due to severe health condition when the counsel appeared before this court on late time i.e. 12:15 PM this Hon,ble court dismissed the above titled service appeal in default as well as not deposited of security fees vide order dated 08/10/2024. ( Copy of order is attached as Annexure-A)
3. That non-appearance of the counsel for the appellant within time neither intentionally nor deliberately but due to above mentioned

reason, moreover the counsel of the appellant seeks extension /time to deposit the security. (2)

4. That it is in the interest and view of the verdicts of the superior court the general consideration should be given to the restoration and case should be decided on merits.

It is therefore most humbly prayed that on acceptance of this application the titled service appeal may kindly be restored and decided on merits in the best interest of justice.

  
Appellant

Through

  
Hamad Hussain

Advocate High court.

0312-0952763

3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Restoration Petition No. \_\_\_\_\_/2024**

**In  
Service appeal No 1565/2023**

**Shehzad Hassan, EXFC Elite Force**

**.....petitioner**

**VERSUS**

**The Provincial Police Officer KPK Peshawar and others.**

**AFFIDIVATE**

I, Shehzad Hassan, EXFC Elite Force Peshawar do hereby solemnly affirm and declare that the contents of the accompanying Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon 'able Court.

*Shehzad*  
Deponent

*Adhwal*  
*SH*

ATTESTED  
MUHAMMAD AAEEM KHAN  
ADVOCATE  
OATH COMMISSIONER  
24<sup>th</sup> 2/24

(4)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 1565/2023**

Shehzad Hassan Ex-Constable No: 639/UT S/O Mir Hussan R/O Masho Khel Mahalla  
Goncha Khel Peshawar ..... Appellant

**VERSUS**

Provincial Police Officer Khyber Pukhtunkhwa Peshawar and Others.  
..... Respondents

**INDEX**

S.NO	Appeal/ Nature Of Documents	Annexure	Page
1.	Memo of appeal		1-5
2.	Affidavit		6
3.	Copy Of FIR is attached	A	7-8
4.	Copy of dismissal order dated 22/02/2022	B	9
5.	Copy of Acquittal order dated 22/5/2023	C	10-26
6.	copy of Departmental Appeal dated 5/6/2023	D	27-29
7.	copy of rejection order dated 21/06/23	E	30-31
8.	Wakalat nama		32

  
Appellant

Through

  
HAMAD HUSSAIN

&

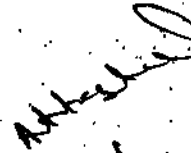
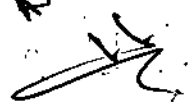
IRFAN ULLAH

Advocate Peshawar High Court

Peshawar

03120952763

Date: 19-07-2023

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 1565/2023**

Shehzad Hassan Ex-Constable No: 639/UT S/O Mir Hussan R/O Masho Khel  
Mahalla Goncha Khel Peshawar ..... Appellant

**VERSUS**

- 1) Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
- 2) The Additional Inspector General of Police, Elite Force /Commandant Elite Force Police Khyber Pakhtunkhwa Peshawar.
- 3) The Commandant Elite Force Police Khyber Pakhtunkhwa Peshawar.
- 4) Deputy Commandant Elite Force Police Khyber Pakhtunkhwa Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORIGINAL ORDER BEARING NO. 1879-86 DATED 22/02/2023, BY THE DEPUTY COMMANDANT ELITE FORCE PESHWAR, WHEREBY THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE, AND IMPUGNED ORDER 21/06/2023 WHEREBY THE DEPARTEMENTAL APPEAL OF THE APPELLANT WAS REJECTED BY THE ADDL INSPERTOR GENERAL OF POLICE ELITE KHYBER PAKHTUNKHWA, PESHWAR.

**PRAYERS:-**

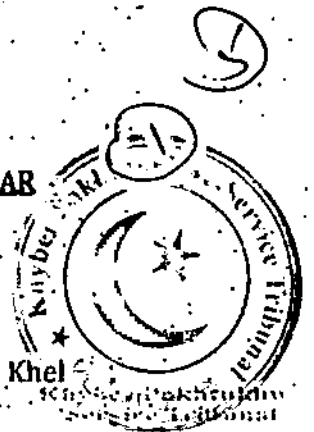
MOST HUMBLY PRAYED THAT ON ACCEPTANCE THE INSTANT SERVICE APPEAL, BOTH THE IMPUGNED ORDERS MAY VERY KINDLY BE DECLARED ILLEGAL, UNLAWFUL AND VOID-AB-INITIO AND THE APPELLANT MAY KINDLY RE INSTATED INTO SERVICE WITH ALL CONSEQUENTIAL / BACK BENEFITS THAT ANY OTHER RELIEF NOT ASKED BY THE APPELLANT IF DEEMED FIT BY THIS HONOURABLE TRIBUNAL MAY ALSO BE GRANTED.

Original Impugned order date 22/02/2022

Departmental appeal date 5/06/2023.

**TESTED**  
*[Signature]*  
EX-CHIEF  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

15-10-24



Date of rejection of Departmental Appeal. 21/06/2023

**RESPECTFULLY SHEWETH.**

**My humble submission are as under.**

1. That the appellant namely Shehzad Hassan No 639/UT was serving as constable in the police department and then on deputation to Elite force Khyber Pakhtunkhwa under the Command of Superintendent of Police, Elite Force Khyber Pakhtunkhwa and has rendered unblemished service recorded.
2. That during the duty the appellant was seriously ill and also submitting leave application on medical ground the concerned official.
3. That thereafter on 26/10/2021 the applicant was falsely charged in criminal case vide F.I.R.No. 137 u/s 11-C-Kp/CNSA, Police Station Excise Peshawar. (Copy Of FIR is attached as Annex-A)
4. That when the appellant was falsely charged in the above cited case and behind the bar at central jail Peshawar.
5. That on 22/02/2022 the appellant was dismissed from service through impugned order, and at the time of dismissal the appellant was behind the bar at central jail Peshawar. (Copy of dismissal order dated 22/02/2022 is attached as annex-B)
6. That the appellant was trailed by the Additional session judge-1.Peshawar and was acquitted on 22/05/2023 from the charges being innocent and falsely charged in the planted case. ( Copy of Acquittal order dated 22/5/2023 is attached Annex- C)
7. That on 5/6/2023 the appellant has filed a departmental appeal against the impugned / dismissal order dated 22/02/2022 issued by Respondent department. (copy of Departmental Appeal is attached as Annexure-D)

ATTESTED  
JUDGE  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



(7) (3)

8. That on 21/06/2023 departmental appeal filed by the appellant was rejected by the Additional Inspector General of Police Elite Force, Khyber Pakhtunkhwa Peshawar vide its order No. 21/06/2023 ( copy of rejection order dated 21/06/23 upon departmental appeal by Additional Inspector General of Police Elite Force, Khyber Pakhtunkhwa Peshawar is attached as Annexure-E)

9. That feeling aggrieved from the respondent's rejection order on departmental appeal the appellant approach this Honourable Tribunal with the following grounds.

GRUNDS:-

- A. That the appellant has not been convicted by court of law in criminal case and court proceedings against the applicant was pending at the time of departmental proceeding against the appellant in the court of Additional District and Session judge -I Peshawar and after conducting trial the appellant was acquitted from the charges though an order/ judgment dated 22/05/2023.
- B. That no regular inquiry has been conducted against the appellant nor the inquiry officer summoned the accused appellant from judicial lockup to record statement of appellant nether the appellant was personally heard during the inquiry proceeding thus whole proceeding is illegal, unlawful against the law and rules, void -initio, hence dismissal order dated 22/02/2022 of the appellant is liable to be set aside.
- C. That the inquiry officer proceeded an illegal inquiry against the appellant wherein the department was in knowledge about the appellant who was in judicial lockup at central prison Peshawar , while the department could not communicated charge sheet / statements of allegation and show cause notice to the appellant at central prison Peshawar neither the inquiry officer visited central prison to record statement of the applicant behind the judicial lock up nor an opportunity of cross examination was provided to the appellant and one sided / ex- party departmental proceedings initiated against the appellant which is against the law, rules , judgment of the superior courts and also against the norms of natural justice.

APPROVED  
[Signature]  
Additional Inspector General of Police  
Khyber Pakhtunkhwa  
Tribunal  
Peshawar

76

(8) (4)

D. That no opportunity of personal hearing was afforded to appellant, which is also the mandatory requirement of law and rules. The applicant was condemned unheard and accordingly the dismissal order dated 22/02/2022 is void, ab-initio, arbitrary, hence not sustainable.

E. That the right of fair trial is granted by Article 10 A of the constitution of Islamic republic of Pakistan 1973 but the same cannot provided to the appellant, furthermore there is no evidence against the appellant.

F. That codal formalities regarding dismissal of the applicant has not been followed by the department in accordance with Law and Rules, while in case the appellant was in judicial lockup and behind the bar which against the norms of natural justice.

G. That according to law and rules as well as averments of judgments of the superior courts the department cannot dismissed the applicant from service, while the department can suspend the applicant if the court of law has not been declared the appellant as convict and during the period behind the bar/ judicial lockup on suspension the appellant is entitled to pay monthly salary till conviction from the court of law in this regard the applicant rely upon judgment of the Superior Court reported as 2019 PLC (CS) 255.

H. That the department committed illegality and irregularity referred to FR 54 and CSR 194 which read as:

"CSR 194-A: A Government Servant who has been charged for a criminal offence or debt and is committed to prison shall be considered as under suspension from the date of his arrest. In case such a Government Servant is not arrested or is released on bail, the competent authority may suspend him, by specific order, if the charge against him is connected with his position as Government Servant or is likely to embarrass him in the discharge of his duties or involve moral turpitude. During suspension period the Government servant shall be entitled to the subsistence grant as admissible under FR 53."


ATTESTED  
Jm  
F. M. J. J. J. J.  
Khyber Pakhtunkhwa  
Secty. General  
Peshawar

(a) (b)

It is, therefore, most humbly requested that on acceptance of the instant appeal the appellant may very kindly be re-instated in his service in Tribunal mentioned above with all back benefits.

Any others relief the appellant which mat not asked by the appellant from this Honourable Tribunal if deemed fit may also be granted.

  
Appellant

Through 

HAMAD HUSSAIN


&

IRFAN ULLAH

Advocates

Peshawar

03120952763

  
**ATTESTED**  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

10.09.2024

1. Learned counsel for the appellant present. Mr. Naseer Uddin Shah learned Assistant Advocate General for the respondents present.

2. Security fee not deposited. Learned counsel for appellant requested for time to deposit security fee. He may do so within a week. Adjourned. To come up for arguments on 08.10.2024 before D.B. P.P given to the parties.

(Rashida Bano)  
Member (J)

(Kalim Arshad Khan)  
Chairman

Kabeerullah

ORDER  
8<sup>th</sup> Oct, 2024

Mr. Kalim Arshad Khan, Chairman: None for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

02. Nobody is present on behalf of the appellant nor security fees has been deposited despite providing opportunities on the previous dates, therefore, the instant appeal is dismissed in default as well as for non-compliance of the court order. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 8<sup>th</sup> day of October, 2024.*

(Farzana Pajal)  
Member(E)

(Kalim Arshad Khan)  
Chairman

\*Adnan Shah\*

Security  
not submitted

08-10-24  
SCANNED  
Peshawar

Certified to be true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
15-10-24