

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

CM No. 1311 /2024 in Service Appeal No: 891/2024

1. Govt: of KP through the Secretary Establishment Department.
2. Secretary E&SE Department Govt: of KP Peshawar.
3. The Director E&SE Department Khyber Pakhtunkhwa Peshawar..... Applicants

VERSUS

Muhammad Irshad PST GPS Mazdoor Abad, District Mardan etc..... Respondents..

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**SAMINA ALTAF
DIRECTOR**



**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.**

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

(7)

CM No. 1311 /2024 in Service Appeal No: 891/2024

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VERSUS

Muhammad Irshad PST GPS Mazdoor Abad, District Mardan etc..... Respondents.

**APPLICATION FOR SETTING ASIDE THE EX-PARTEE
ORDER DATED 25-07-2024 OF THIS HONORABLE
TRIBUNAL IN THE TITLED APPEAL ON BEHALF OF
THE RESPONDENTS NO. 1 TO 3.**

**Khyber Pakhtunkhwa
Service Tribunal**

Respectfully Sheweth: -

Diary No. 17429
Dated 30-10-24

The Applicants submit as under: -

1. That the tilted appeal is pending adjudication before this Honorable Tribunal filed by the appellant against the impugned order dated 06-08-2020.
2. That vide order dated 25-07-2024, this Honorable Tribunal has passed an Ex-Partee order against the Respondents on account of non-pursuance & submission of the required joint para wise comments in the titled appeal by the Respondents.
3. That no notice & intimation regarding the hearing date has been received from this Honorable Tribunal by the Respondents now applicants under the relevant provision of KP Service Tribunal Act, 1974, hence resulted in the non-appearance on behalf of the Respondents on the date fixed (25-07-2024) which was not intentional rather due to the no-receiving of pre-notice regarding the date fixed by the E&SED KP Peshawar.
4. That the impugned order dated 25-07-2024 has been passed on Technical Grounds in violation of the clear-cut directions in so many reported Judgments of the apex court of law regarding disposal of the like nature cases on merits of the case instead of on Technical Grounds for meeting the ends of justice.
5. That the application in hand is within time limitation having no legal bar in entertaining the same on behalf of the Respondents, rather it would be in the interest of justice & equity if allowed & subsequently disposal of the titled appeal on merits of the case by affording fair chance of defense to contest the titled appeal by submitting reply by the Respondent Department.
6. That valuable legal rights are attached with the titled matter of the Respondents & if the order dated 25-07-2024 has not been re-called & set aside, then the ES&E Department KP shall suffer huge financial losses.

Therefore, in view of the fore-made submissions, it is most humbly prayed that on the acceptance of this application, the Honorable Tribunal may very graciously be pleased to re-call the impugned order dated 25-07-2024 in favor of the Respondents now applicants in the titled application in the interest of justice please.

Dated: ___/___/2024

**SAMINA ALTAF
DIRECTOR**



**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.**

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

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CM No. _____ /2024 in Service Appeal No: 891/2024

1. Govt: of KP through the Secretary Establishment Department.
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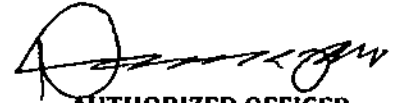
VERSUS

Muhammad Irshad PST GPS Mazdoor Abad, District Mardan etc..... Respondents..

AFFIDAVIT

I, Samina Altaf, Director (E&SE) Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm & declare on oath that the contents of the instant application for setting aside the Ex-parte order dated 25-07-2204 of this Honorable Tribunal in the titled appeal on behalf of the Respondents No. 1 to_3 are true & correct to the best of my knowledge & belief & nothing has been concealed from the ambit of this Honorable Tribunal.

DEPONENT
SAMINA ALTAF
DIRECTOR



AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.



29 OCT 2024



AUTHORITY LETTER

I, Samina Altaf, Director (E&SE) Khyber Pakhtunkhwa Peshawar do hereby authorized Mr. Behramand Khan, Assistant Director Litigation-II of this Directorate for submission of CM application in Service Appeal No. 891/2024 case titled **Muhammad Irshad Vs Government of Khyber Pakhtunkhwa & others**, hence, an authority letter is hereby issued in favor of the above-named officer.

**SAMINA ALTAF
DIRECTOR**

**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.**

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-1-

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 891 /2024

Muhammad Irshad Son of Muhammad Zada Resident of Tehsil & District Mardan
Designation: Senior Primary School Teacher at GPS Mazdoor Abad

.....Appellant

VERSUS

- 1) Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar
- 2) Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Civil Secretariat, Peshawar
- 3) Director Elementary and Secondary Education Department

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED

PRAYER:

ON ACCEPTANCE OF INSTANT SERVICE APPEAL, THE IMPUGNED NOTIFICATION BEARING NO: SO (POLICY) E&AD/1-312020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, MAY BE DECLARED AND ORDERED TO BE STRUCK DOWN BEING VOID AND ULTRA VIRES TO THE CONSTITUTION OF PAKISTAN AND FUNDAMENTAL PRINCIPLES OF NATURAL JUSTICE AND AGAINST THE RIGHTS OF APPELLANT.

ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE APPELLANT.

RESPECTFULLY SHEWETH:

1. That the Respondents Department appointed the Appellant as Senior Primary School Teacher.
- Copy of Monthly Salary account is annexed as **Annexure A**

891/2024

M. Goshad

(5)



25th July, 2024

1. Learned counsel for the appellant and Mr. Umar Azam, Additional Advocate General present.

2. Despite service through TCS, respondents have not submitted reply/comments, nor anybody is present on behalf of respondents. Therefore, they are placed ex-parte.

The appeal is admitted to regular hearing subject to all just and legal objections. Appellant is directed to deposit security fee within 10 days. To come up for ex-parte arguments on 31.10.2024 before D.B. P.P given to the appellant's counsel. s

ATTESTED

Mutazem Shah
29-10-24

Mutazem Shah

(Kalim Arshad Khan)
Chairman

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Application No. (371) Date 29-10-24

Name of Applicant _____

Number of Words/Pages 1-P

Copying Fee 5/-

Urgent/Ordinary 5/-

Total 10/-

Name & Sign of Copyist Zeeshan

Date of Completion of Copy 29-10-24

Date of Delivery of Copy 29-10-24