


Form-A  
FORM OF ORDER SHEET

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

Restoration Application No. 1333/2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	05.11.2024	<p>The application for Service Tribunal No. 1238/2021 submitted today by Mr. Arbab Kaleem Ullah Advocate. It is fixed for hearing before Division Bench at Peshawar on 12.11.2024. Original file be requisitioned. Counsel for the appellant has been informed telephonically.</p> <p>By order of the Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL  
PESHAWAR

R.A. No. 1333/2024

Service Appeal No.1238/2021

Muhammad Javed .....Appellant


Versus

District Education Officer (Male) Kohat and others..... Respondents

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S.No.	Description of documents.	Annexure	Pages.
1.	Application for restoration with affidavit.		1-2
2.	Copy of order dated 20.09.2024 along with grounds of appeal.		3-10

Dated: 05.11.2024

Through Appellant  
  
Arbab Kaleem Ullah  
Advocate Supreme Court.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

R.A. No. 1333/2024

Service Appeal No. 1238/2021

Khyber Pakhtunkhwa  
Service Tribunal

Case No. 17599

Dated 05-11-24

Muhammad Javed s/o Reshmin Khan

R/o Sirkedal P.O. Rehman Abad,

Tehsil and District Kohat.....Appellant

Versus

- 1) District Education Officer (Male) Kohat.
- 2) Sub Divisional Education Officer (Primary) Lachi, Tehsil Lachi District Kohat (male).
- 3) Director Elementary and Secondary Education KPK, Peshawar.
- 4) Secretary Finance, KPK Civil Secretariat, Peshawar.
- 5) District Accounts Officer, Kohat.
- 6) Account Officer DEO (M) Office Kohat..... Respondents

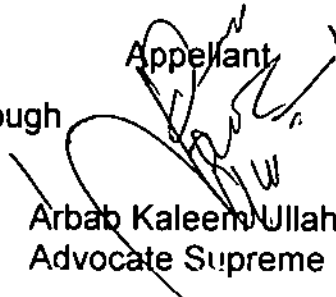
APPLICATION FOR RESTORATION OF  
THE ABOVE NOTED APPEAL, DISMISSED  
IN DEFAULT

Respectfully Sheweth;

- 1) That the above noted appeal was fixed on 20.09.2024 and dismissed in default.
- 2) That the undersigned/ counsel for petitioner was under impression that the appeal was fixed for 04.11.2024 because clerk has noted the case in the Diary as 04.11.2024.

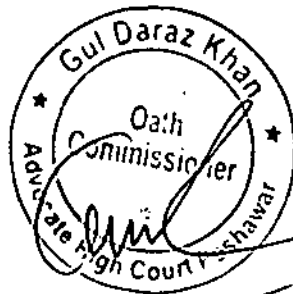
- 3) That the non-appearance of the counsel was neither intentional nor deliberate but due to the reason mentioned above.
- 4) That the application is well within time from the knowledge.
- 5) That superior courts of the country always favour adjudication of the cases on merits rather than on technicalities and there is no legal impediment in the way of restoration of the case.

It is, therefore, requested that the above noted appeal may kindly be restored in the interest of justice and be decided on merits.

Appellant  
Through  
  
Arbab Kaleem Ullah  
Advocate Supreme Court.

#### AFFIDAVIT

I, Arbab Kaleem Ullah Advocate (counsel for appellant), do hereby affirm and declare that the contents of the accompanying Application are true and correct to the best of my knowledge and belief to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



  
Deponent  
05/11/24

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL  
PESHAWAR

Service Appeal Revision No. 1238 /2021

Muhammad Javed .....Appellant

Versus

District Education Officer (Male) Kohat & others..... Respondents

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8.	Copy of grounds of appeal and order dated 23.11.2019	E-E/1	22-33
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Through

Appellant

*Arbab Kaleem Ullah*  
Advocate High Court  
Peshawar

Dated:

(4)

(2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal Revision No. \_\_\_\_\_/2021



Muhammad Javed s/o Reshmin Khan

R/o Sirkedal P.O. Rehman Abad,

Tehsil and District Kohat.....Appellant

**Versus**

- 1) District Education Officer (Male) Kohat.
- 2) Sub Divisional Education Officer (Primary) Lachi, Tehsil Lachi District Kohat (male).
- 3) Director Elementary and Secondary Education KPK, Peshawar.
- 4) Secretary Finance, KPK Civil Secretariat, Peshawar.
- 5) District Accounts Officer, Kohat.
- 6) Account Officer DEO (M) Office Kohat..... Respondents

APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL  
ACT, 1974.

PRAYER-IN-APPEAL:

On acceptance of this appeal, this Hon'ble Tribunal may be pleased to direct the respondents to:

- i) Make payment in shape of monthly salary from a period 07.01.2016 to 30.09.2016 as per pay slip alongwith adhoc allowance for a period January 2016 to June 2016.

TESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



- (5)
- (2)
- ii) Sanction encashment of LPR of 240 days.
  - iii) Pay the amount of Rs.300000/- spent on the construction of boundary wall of the primary school, Janak.

Respectfully Sheweth:

**BRIEF FACTS**

The appellant humbly submits as under:-

1. That the appellant was appointed in Education Department on 04.10.1990 as a primary school teacher and since then performing his duties. (Copy Annexure "A").
2. That the appellant without any complaints proceeded his service and completed his 25 years serving the education department in different school of District Kohat.
3. That on 07.01.2016 on the basis of service length/ period of the appellant i.e 25 years 3 months, moved an application for his retirement due to some of his domestic and health issues before the office of respondent No.2. (Copy Annexure "B").
4. That the appellant's application moved on 07.01.2016, was accepted on 30.09.2016 vide order No.6845-47 whereas the date of retirement was considered from 07.01.2016. (Copy Annexure "C").
5. That from 07.01.2016 to 30.09.2016, the appellant was an employee of department but unfortunately no salary and other incentives were paid to the appellant for his services, even the appellant was entitled for earned leave but he was kept disentitled by the respondent.

TESTED

EXAMINER  
1/1/2016

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6. That the appellant moved various applications before the respondents for the redressal of his grievance but all in vain.

7. That the appellant filed a suit before the court of Senior Civil Judge, Kohat and prayed for the relief and redressal of his grievance, but being devoid of jurisdiction the plaint of appellant was returned vide order dated 28.06.2019. (Copy of suit and order is Annexure "D and D/1").

8. That feeling aggrieved from the orders of Civil Judge the appellant filed an appeal before the learned ADJ-V, Kohat which was turned down by the learned ADJ-V on the ground of jurisdiction and maintainability. (Copies of grounds of appeal and order are Annexure "E and E/1")

9. That being dissatisfied the appellant approached the hon'ble Peshawar High Court, Peshawar in Revision Petition, which was decided/ allowed in the following terms:

"As the matter pertains to arrears in shape of salaries as well as LPR, which is legal right of the petitioner, but the petitioner has approached to Civil Court having no jurisdiction to decide such matter. Learned counsel for the petitioner requested that he may be allowed to withdraw the plaint with the permission to file writ petition before this court. As such, the prayer of the petitioner is allowed, the impugned judgments are set aside and the plaint filed by the petitioner is returned to him for presentation before competent court of law through competent petition".

(Copy of revision petition and order are attached as Annexure "F and F/1").

ATTESTED  
MEMBER  
Peshawar  
Tribunal  
Peshawar



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Hence the appellant approaches this hon'ble tribunal in the instant service appeal on the grounds mentioned below:

**GROUND:**

- a) That the rights of appellant have been violated and the hon'ble courts below have got ample jurisdiction to entertain the suit of the appellant.
- b) That the act of respondents is totally illegal and clear violation of the rights of appellant as he was an employee of education department till 30.09.2016, therefore, he is entitled for the monthly salary and other incentives for a period of 09 months i.e. 07.01.2016 to 30.09.2019.
- c) That recovery of salary/ amount and other expenses, does not come under the ambit of terms and conditions, hence the court has got jurisdiction. Furthermore, the appellant is not civil servant now and got retired.
- d) That the appellant was directed by respondent No.2 to complete a boundary wall of GPS Janak, being the headmaster of the school and appellant's retirement was stopped and a fake inquiry was initiated against the appellant, just to harass and humiliate and clearance certificate was not issued inspite of the facts that all work was completed accordingly and after a period of 09 months clearance certificate was issued. (Certificate and Notice annexed as Annexure "G, G/1 and G/2").
- e) That the appellant spent Rs.300000/- on construction of wall from his own, which till date is not yet paid by respondent No.2 even after providing all documents and inspection by various officers. (Construction details is Annexure "H").

ATTESTED

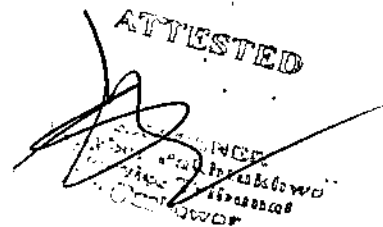
SECRETARY  
SERVICE TRIBUNAL  
BANGALORE

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- f) That time and again the appellant requested for his monthly salary and Rs.300000/- spent on construction of boundary wall of the school, but all in vain.
- g) That the appellant length of service is 25 years, 3 months and the appellant was entitled for earned leave as well but the respondent No.1 with some ulterior motives deprived the appellant of earned leaves amounting to 240 days.
- h) That the appellant is deprived from all his rights for which he was entitled that vide notification Ends. No.5716-19 dated 08.05.2017 one employee Mr.Badshah Gul of same service length was granted retirement and LPR was also sanctioned for time period mentioned. (Copy Annexure "I").
- i) That furthermore premature increase in pension has also not been added on the age of the appellant was 44 years plus 25 years service amount to 69, while the target set is 72, so far the reasons the appellant was also entitled for premature increase/increments.
- j) That the appellant approached the Hon'ble High Court in writ petition where it was withdrawn with a direction to approach the proper forum.
- k) That the appellant has not been treated according to rules and regulations and at the old age he has been deprived of his legal rights.
- l) That other grounds will be raised at the time of arguments by the permission of this Hon'ble Court.

ATTESTED

  
The undersigned  
Secretary  
10/10/2017

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PRAYER:


It is therefore, most respectfully prayed that on acceptance of this service appeal, this Hon'ble Tribunal may be pleased to direct the respondents to:

- i) Make payment in shape of monthly salary from a period 07.01.2016 to 30.09.2016 as per pay slip alongwith adhoc allowance for a period January 2016 to June 2016.
- ii) Sanction encashment of LPR of 240 days.
- iii) Pay the amount of Rs.300000/- spent on the construction of boundary wall of the primary school, Janak.

Any other relief or direction expedient in the interest of justice may also be granted to the appellant in the interest of justice.

  
Appellant

Through

  
Arbab Kaleem Ullah  
Advocate High Court  
Peshawar

ATTESTED:  
  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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12<sup>th</sup> July, 2024

Clerk to counsel for the appellant present. Mr. Badshah Gul, Assistant alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk to counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 20.09.2024 before the D.B. Parcha Peshi given to the parties.

RECEIVED  
PESHAWAR

(Muhammad Akbar Khan)  
Member (Executive)

(Aurangzeb Khattak)  
Member (Judicial)

\*Nouem Amin\*

ORDER

20<sup>th</sup> 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 20<sup>th</sup> day of September, 2024.*

(Rashida Bano)  
Member(J)

(Kalim Arshad Khan)  
Chairman

\*Adnan Shah, P.A.\*

Certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

04-11-24

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Application No. 444 Date 04-11-24  
Name of Applicant M. Jinnah  
Number of Words/Pages 10-p  
Copying Fee 50/-  
Urgent/Ordinary S/E  
Total 55/-  
Name & Sign of Copyist S. Jinnah  
Date of Completion of Copy 04-11-24  
Date of Delivery of Copy 04-11-24