


Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 1361/2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	07.11.2024	<p>The application for restoration of Service Appeal No. 5726/2021 submitted today by Mr. Aimal Khan barkandi Advocate. It is fixed for hearing before Division Bench at Peshawar on 18.11.2024. Parcha Pehsi given to counsel for the applicant.</p> <p>By order of the Chairman</p> <p> REGISTRAR.</p>

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

R.A. No. 1361 /2024

In

Service Appeal No.5726/2021

Sheren Jan.....Applicant/ Appellant

v/s

Govt. of Khyber Pakhtunkhwa through Secretary

E & SE, Civil Secretariate, Peshawar.....Respondents

I N D E X

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Through

Applicant/ Appellant

Sheren Jan



8/11/24

Aimal Khan Barkandi

Advocate High Court,

Peshawar

①

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

R.A
G.M. No. 1361 /2024

Khyber Pakhtunkhwa
Service Tribunal

Case No. 17819

Dated 08-11-24

In

Service Appeal No.5726/2021

Sheren Jan s/o Adam Khan, D.M Govt. High School Wanda
Dost Ali, Tehsil & District D.I. Khan

.....Applicant/ Appellant

v/s

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Civil Secretariate, Peshawar
2. Director School and Literacy Education Department, Govt. of Khyber Pakhtunkhwa, Peshawar
3. District Education Officer, Education Department, Dera Ismail Khan
4. Mr. Jehanzeb s/o Jamal ud Din, D.M Govt. High School Ghulam Wala, District D.I. Khan
5. Mr. Sanaullah s/o Sher Muhammad, D.M Govt. High School Baghi Qamar, District D.I. Khan
6. Muhammad Javed s/o Hamesh Gul, D.M Govt. High School Rangpur Shumali, Tehsil Paharpur District D.I. Khan
7. Muhammad Ehsan Qureshi, D.M Govt. Higher Secondary School Kot Jai, District D.I. Khan

8. Muhammad Azhar s/o Muhammad Anwar, D.M Govt. High School Budh, District D.I. Khan
9. Fida Muhammad s/o Ghulam Siddique, D.M Govt. High School Gumal Kalan, District D.I. Khan
10. Muhammad Ayub Khan s/o Amanullah, D.M Govt. Higher Secondary School Chdhvan, District D.I. Khan
11. Kalam Ullah s/o Abdul Ahad, D.M Govt. High School Wanda Moazam, District D.I. Khan
12. Muhammad Asif Saeed s/o Muhammad Saeed, D.M Govt. Middle School Chah Lal Wala, District D.I. Khan
13. Sibghat Ullah s/o Mulazim Hussain, D.M Govt. High School Hafiz Abad, D.I. Khan
14. Mehraban Khan s/o Muhammad Ramzan, D.M Govt. Middle School Thoya Fazil, District D.I. Khan
15. Muhammad Yaqoob s/o Muhammad Hashim, D.M Govt. Middle School Adda Himat, District D.I. Khan
16. Hameed Ullah s/o Aslam Khan, D.M Govt. High School Zarni Khel, District D.I. Khan
17. Muhammad Akhtar s/o Haq Nawaz, D.M Govt. Middle School No.1 Prova, District D.I. Khan
18. Daud Khan s/o Muhammad Nawaz, D.M Govt. High School Nawab, District D.I. Khan

.....Respondents

**Application for restoration of the
titled appeal which has been
dismissed in default vide order
dated 09.10.2024**

Respectfully submitted;

1. That the titled appeal has been dismissed in default on 09.10.2024 by the hon'ble Tribunal due to non-appearance of the applicant/ appellant in the case. (Copy of the service appeal alongwith order dated 09.10.2024 is annexure "AA")
2. That the case was under adjudication at D.I. Khan Bench/ Camp Court of this hon'ble Tribunal, however, due to law and order situation at District D.I. Khan, the above appeal was referred/ transferred to Principal Seat at Peshawar. After transfer of the appeal to Peshawar, the applicant was not informed about the date fixed in the case and as such could not put his appearance in the case.
3. That the counsel of the applicant/ appellant also belongs to D.I. Khan and practices there and did not know about the date fixed, hence, he also could not make his presence in the case.
4. That the applicant did not know about the date fixed in the appeal. The absence of the applicant was neither intentional nor willful but due to the above reasons.
5. That the appeal is of the year 2021 and since then the applicant has always pursued and the attended the case. Moreover, the case has become mature for final adjudication and in these circumstances, dismissing the appeal in default is not justifiable.
6. That the matter agitated in the case relates to promotion of the applicant and valuable rights of the applicant are attached with the appeal.

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BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

C.M. No. _____/2024

In

C.M. No. _____/2024

In

Service Appeal No.5726/2021

Sheren Jan.....Applicant/ Appellant

v/s

Govt. of Khyber Pakhtunkhwa through Secretary

E & SE, Civil Secretariate, Peshawar.....Respondents

**Application for condonation of
delay (if any) in filing the
accompanying application**

Respectfully submitted;

1. That this application is filed alongwith the accompanying application in the hon'ble Tribunal.
2. That the applicant came to know about the order dated 09.10.2024 whereby the appeal of the applicant has been dismissed in default.

(4)

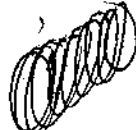
7. That a few days ago the applicant came to know about the dismissal order, hence, the application in hand is well within time and there is no legal embargo in restoring the titled appeal.

It is, therefore, prayed that the titled appeal may kindly be restored for decision on merits.



Applicant/ Appellant
Sheren Jan

Through

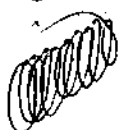


8/11/24

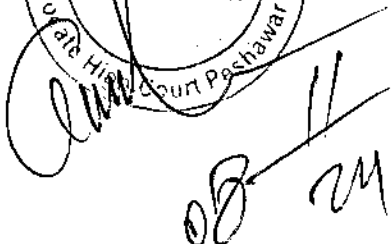
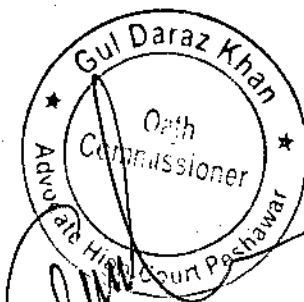
Aimal Khan Barkandi
Advocate High Court,
Peshawar

AFFIDAVIT

I do hereby affirm on oath that this application has been drafted as per instructions of my client the contents of which are true and correct to the best of knowledge and belief.



Deponent




- 3. That the application for restoration is well within time, however, to avoid any technicality and complexity in future, the applicant is filing this application.
- 4. That moreover, the law and order situation at D.I. Khan is worse, hence, the applicant could not inquire about the date fixed in the case.

It is, therefore, prayed that the delay (if any) in filing the application for restoration may kindly be condoned in the best interest of justice.



Applicant/ Appellant
Sheren Jan

Through

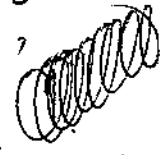


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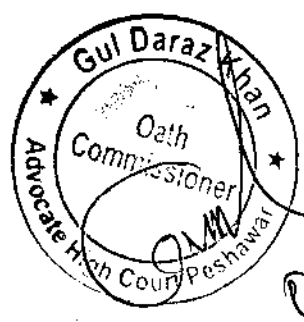
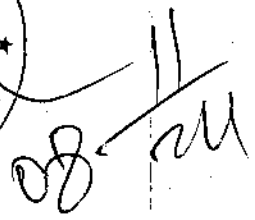
Aimal Khan Barkandi
Advocate High Court,
Peshawar

AFFIDAVIT

I do hereby affirm on oath that this application has been drafted as per instructions of my client the contents of which are true and correct to the best of knowledge and belief.



Deponent

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BEFORE THE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
CAMP OFFICE D.I.KHAN

annex
"AA"

Service Appeal No _____ D/2021

Sheren Jan S/O Adam Khan DM Govt High School Wanda Dost Ali Tehsil & District
D.I.Khan

Appellant

VERSUS

1. Govt of Khyber Pakhtunkhwa
Through Secretary Elementary and Secondary Education
Civil Secretariat Peshawar.
2. Director School and Literacy
Education Department
Govt of Khyber Pakhtunkhwa
Civil Secretariat Peshawar.
3. District Education Officer
Education Department
Dera Ismail Khan
4. Mr. Jahanzeb S/O Jamal Ud Din
D.M Govt High School Ghulam Wala
District D.I.Khan
5. Mr. Sanaullah S/O Sher Muhammad
D.M Govt High School Baghi Qamar
District D.I.Khan
6. Muhammad Javed S/O Hamesh Gul
D.M Govt High School Rangpur Shumali
Tehsil Paharpur District D.I.Khan
7. Muhammad Ehsan Qureshi
D.M Govt Higher Secondary School Kot Jai
District D.I.Khan
8. Muhammad Azhar S/O Muhammad Anwar
D.M Govt High School Budh
District D.I.Khan
9. Fida Muhammad S/O Ghulam Siddique
D.M Govt High School Gumal Kalan
District D.I.Khan
10. Muhammad Ayub Khan S/O Amanullah
D.M Govt Higher Secondary School Chdhvan
District D.I.Khan

M. IQBAL KUNDI
Advocate High Court
Legal Advisor Wapita Peshawar

ATTESTED

06/11/21
SECRETARY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- (8)
11. Kalam-Ullah S/O Abdul Ahad
D.M Govt High School Wanda Moazam
District D.I.Khan
12. Muhammad Asif Saeed S/O Muhammad Saeed
D.M Govt Middle School Chah Lal Wala
District D.I.Khan
13. Sibghat Ullah S/O Mulazim Hussain
D.M Govt High School Hafiz Abad
District D.I.Khan
14. Mehrban Khan S/O Muhammad Ramzan
D.M Govt Middle School Thoya Fazil
District D.I.Khan
15. Muhammad Yaqoob S/O Muhammad Hashim
D.M Govt Middle School Adda Himat
District D.I.Khan
16. Hameed Ullah S/O Alam Khan
D.M Govt High School Zarni Khel
District D.I.Khan
17. Muhammad Akhtar S/O Haq Nawaz
D.M Govt Middle School No.1 Prova
District D.I.Khan
18. Daud Khan S/O Muhammad Nawaz
D.M Govt High School Nawab
District D.I.Khan

[Signature]
M. Aslam
Advocate
Legal Advisor Wanda Pesco

Respondents

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974

Prayer:-

On acceptance of instant Service appeal this honorable Tribunal may be pleased to pass judgment by declaring that seniority list of Drawing Master issued on 13-11-2020 being wrong, void and incorrect and is to be rectified by correcting the date of appointments of respondents 4 to 18 and appellant is to be promoted on the post of senior Drawing Master (BPS-16) like respondents 4 to 13 in the interest of justice.

Respectfully Sir,

1. That appellant had filed writ Petition No. 138/2005 in Peshawar High Court Bench Dera Ismail Khan titled Muhammad Saleemi and Qamar Gul V/S Govt of Khyber Pakhtunkhwa and other against illegal and unlawful appointments of Drawing Masters in NOV 2003 without conducting test and interview and without completion of Codal formalities mentioned in advertisement of NOV 2003 published in Daily KHABRAIN (روزنامہ خبریں). Copy of writ Petition is enclosed and marked as Annexure A.
2. That Honourable High Court D.I.Khan/ dispose of the ibid writ petition on 16-12-2005 in the following manner:-

ATTESTED
[Signature]
EX-AMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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"We therefore direct the official respondents to retain the candidates appointed against the merit quota and fix their seniority at serial No. 4 and 8 on the roster and appoint the eligible candidates on the basis of their seniority in batch/year of obtaining certificates of Drawing Masters and then inter se seniority within the batch/year according to their merit after the result of written test and interview and the services of those who are not falling within the above mentioned formula be terminated with immediate effect from today. We further direct that writ petition of such petitioners, who do not have right to a vacancy/ post according to the above mentioned formula, shall stand dismissed, it is however observed that any appointee, whether he is or is not a party /respondents in this case and who has been appointed against the post of drawing Master on or after 27-12-2003 under the directions of this court or any other court of competent Jurisdiction shall be retained in services and the junior most on the list according to the above formula shall not be appointed or as the case may be retained in service".

Copy of Judgment dated 16-12-2005 is enclosed and marked as **Annexure B.**

3. That there after Honourable High Court constituted legal committee on 07-07-2006 comprising on some senior Advocates and the then EDO Mr. Abdul Rahim Khan to examine and scrutinize the relevant documents as well as illegal/ unlawful appointments of Drawing Masters made by respondents No. 3.
4. That after scrutinization of all unlawful appointments of Drawing Master report was submitted by legal committee and 25 person were appointed by respondents No. 3 vide endorsement No 20976-79 dated 01-08-2006 in which name of appellant is available at serial No. 2. Copy of appointment letter Dated 01-08-2006 is enclosed and marked as **Annexure "C"**.
5. That while preparing and displaying seniority list issued vide endorsement No. 23488-96 dated 13-11-2020 by respondents No. 3 it was observed with great concern that date of appointment of respondents 4 to 18 were wrongly shown in the alleged seniority list with malafide intensions to show then senior which is reproduced as under:-

S.No	Respondents Name	Respondents No	Actual Date of Appointment vide endorsement No 20976-79 dated 01-08-2006	Date of Appointment mentioned in the Seniority List
1.	Jahanzeb	4	01-08-2006	31-01-2004
2.	Sana Ullah	5	01-08-2006	1-2-2004
3.	Muhammad Javed	6	01-08-2006	06-02-2004
4.	Muhammad Ehsan Qureshi	7	01-08-2006	01-04-2005
5.	Muhamad Azhar	8	01-08-2006	01-03-2004
6.	Fida Muhammad	9	01-08-2006	02-09-2004
7.	Muhammad Ayub	10	01-08-2006	16-10-2004
8.	Kalam Ullah	11	01-08-2006	14-02-2005
9.	Muhammad Asif Saeed	12	01-08-2006	01-04-2005
10.	Mehrban Khan	14	01-08-2006	04-04-2005
11.	Muhammad Yaqoob	15	01-08-2006	04-04-2005
12.	Sibghat Ullah	13	01-08-2006	21-04-2005
13.	Hameed Ullah	16	01-08-2006	09-05-2005
14.	Muhammad Akhtar	17	01-08-2006	21-10-2005
15.	Daud Khan	18	01-08-2006	10-05-2006

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ATTESTED
[Signature]
 ATTORNEY AT LAW
 Advocate Fakhtukhwa
 Service Tribunal
 Peshawar

(10)

(11)

It thus reveals that date of appointment of respondents No. 4 to 18 are not actual in the alleged seniority list. So due to malafide and fraud they were declared senior from appellant by respondents No. 3 where as apparently they are at par with him. Copy of Seniority list issued on 13-11-2020 is enclosed and marked as Annexure D.

6. That thereafter some respondents 4 to 13 were promoted to the post of senior Drawing Master (BPS-16) vide endorsement No. 7058-75/AE-II/Promotion dated 13-03-2019 and 342-47/AE-II/SCM/promotion dated 07-01-2021 on the basis of wrong date of appointments, mentioned in the alleged seniority list. "It is necessary to mention that their services were terminatable in the light of decision given by Honourable High Court in his Judgment dated 16-12-2005 as they has misconceived the facts and wrong baseless information were provided at the time of their selection without test and interview." However it can easily be assessed from supra 5 of the instant appeal that appellant's date of appointment of appellant is the same (01-08-2006) as that of respondents 4 to 8 but the same were changed altered with malafide intention by respondents No. 3 for illegal gain.

Copy of promotion letters dated 13-03-2019 and 07-01-2021 are enclosed and marked as Annexure F and F.

7. That being aggrieved from the alleged seniority list dated 13-11-2020 in respect of Drawing Masters and promoting respondents No. 4 to 13 on 13-03-2019 and 07-01-2021 on the basis of alleged seniority list, appellant filed department Appeal dated 30-12-2020 as and when it came into the knowledge of Petitioner about the irregularity and blunder committed by respondent No. 3 in the alleged seniority list and then promoting them illegally and without lawful authority.

Copy of departmental appeal is enclosed and marked as Annexure G.

8. That while not responding to departmental appeal of appellant and also not rectifying/ correcting the allegation in the alleged ibid seniority list within stipulated period of 90 days appellant now approaches this Honourable tribunal through instant service appeal for redressal of his legitimate and illegal rights inter alia in the following Grounds.

GROUND

1. That alleged seniority list dated 30-11-2020 issued by respondents No. 3 is wrong, void and incorrect and appellant has wrongly been shown Junior from respondents 4 to 18, While mentioning incorrect date of appointments of ibid respondents and Official respondents are liable to correct the date of appointments of ibid respondents in the alleged seniority list and appellant is required to be declared at Par.
2. That official respondents to No. 1 to 3 committed further mistake/ blunder when some of the respondents 4 to 13 were promoted to the post of senior Drawing Master BPS-16 on the basis of alleged void seniority list dated 13-11-2021. But appellant being at par with them was dropped for the reasons not known to him.
3. That as per verdict of the judgement dated 16-12-2005 on writ petition No. 138-D/2005 services of the respondents 4 to 18 were terminatable as they were not eligible for appointment on post of Drawing Master as they had not fulfilled the required codal formalities mentioned in the advertisement published on November 2003 in Daily KHABRAIN. The official respondents not only saved their services in malafide manner but their actual date of appointment i.e. 01-08-2006 was altered in the alleged seniority

[Signature]

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TESTED
26/11/24
MEMBER
Service Tribunal
Khabrain

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list dated 13-11-2020 which clearly reveals that respondents 4 to 19 have wrongly and unlawfully declared them senior from appellant by official respondents So as such legal and legitimate rights of appellant have been usurped and he has been deprived with malafide intentions.

4. That petitioner is noble and peace-full citizen of Pakistan and his fundamental rights are secured and guaranteed under the constitution of Islamic Republic of Pakistan 1973 and official respondents are not liable to deprive him from his constitutional and legal rights.
5. That appellant's counsel may be allowed to raise additional grounds during the course of arguments.

In view of submissions made above it is humbly prayed that instant service appeal of the appellant may be accepted as prayed for in the heading of the appeal in the interest of justice.

Dated: 24-04-2021

Appellant

Sheren Jan

Through Counsel

Muhammad Iqbal Kundi
Advocate High Court

AFFIDAVIT

I Sheren Jan S/O Adam Khan do hereby solemnly affirm on oath and state that contents of his service appeal are correct and nothing has been concealed from this Honourable Tribunal.

Dated: 24-04-2021

Deponent

Certified to be true copy

06/11/21
Khyat-e-Rakhsunkhwa
Service Tribunal,
Feshawar

S.A No. 5726/2021

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ORDER
09.10.2024

None present on behalf of the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents present.

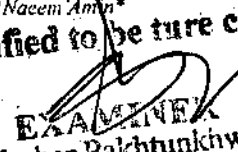
Despite repeated calls at different intervals until the court's rising, none appeared on behalf of the appellant.

In view of the above, this appeal is dismissed in default for want of prosecution. File be consigned to the record room.

ANNOUNCED
09.10.2024


(Rashida Bano)
Member (Judicial)


(Aurangzeb Khattak)
Member (Judicial)

Naeem Amin
Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

06/11/24
Khyber Pakhtunkhwa Service Tribunal, Peshawar
Application No. 509 Date 06/11/24
Name of Applicant Muqeet Adr Chohan
Number of Words/Pages 7 pages
Copying Fee 35/-
Urgent/Ordinary U
Total 40/-
Name & Sign of Copyist Shahzad
Date of Completion of Copy 06-11-24
Date of Delivery of Copy 06-11-24

بعدالت سررس منبر بونزل - صبر و عفو خواہ سار



نورخہ	07.11.2024	7 نومبر، 2024ء پنجاب	شیرین جان ولد آدم خان
مقدمہ	(شیرین جان بنا گورنٹ ویزہ)	دی ایم گورنٹ ہائی سکول	دست علی، ضلع ڈی این
موضوع	درخواست سرسبزی	خان - (درخواست سندھ)	(اپیل سندھ)

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سار کیلئے ایمل خان مارکنزی اور وکیل

تقریر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا۔ نیز
وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا ایمل کی برادگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لانا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Accepted by

المرقوم 7 ماہ نومبر 2024ء

صہواہ العب
کے حضور منظور ہے۔
Amir Khan
Adv. Pun
7/11/24

شیرین جان ولد آدم خان (درخواست 11)
(12103-7279938-9)

بمقام