


FORM OF ORDER SHEET

Court of _____

Review Petition No. 1343/2024

No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	07/11/2024	<p>The Review Petition in appeal no. 4295/2020 submitted today by Mr. Muhammad Ilyas Orakzai Advocate. It is fixed for hearing before Division Bench at Peshawar on 18.11.2024. Original file be requisitioned. Parcha Peshi is given to the counsel for the petitioner.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

REVIEW PETITION NO. 1343 /2024

IN

SERVICE APPEAL NO:- 4295/2020

Muhammad Ashraf S/o Muhammad Hussain R/o Mashtu Banda,
Hangu, TT GPS Ibrahimio Tehsil Central District Orakzai

..... **PETITIONER/APPELLANT**

VERSUS

- 1- The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Education Officer(Male), District Hangu
- 3- The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

REVIEW PETITION UNDER SECTION 7-A OF SERVICE
TRIBUNAL ACT, 1974 R/W SECTION 114, ORDER XLVII RULE 1
OF CPC AND OTHER ENABLING PROVISIONS AGAINST THE
JUDGMENT DATED 01/10/2024.

Respectfully Sheweth:

Petitioner/appellant respectfully submits as under:

- 1- That, the petitioner/appellant has filed Service Appeal No 4295/2020 before this august Tribunal against removal Order from his service dated 17/02/2017 and seek reinstatement into his service with all back benefits and the recommendation of the inquire committee.

Copy of Memo of Service Appeal is attached as annexure "A".

- 2- That the said Service Appeal was dismissed on 01/10/2024 by this Honourable Tribunal. Copy of Judgment/order dated 01/10/2024 is attached as annexure "B".

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- 3- That while delivering the impugned order and judgment dated 01/10/2024 available material on record was not properly appreciated and was mis-interpreted, which amount to be an error and is liable to be reviewed on the following grounds amongst others:-

GROUND:

- A- That the impugned order and judgment dated 01/10/2024 is the result of mis-appreciation and mis-interpretation of available evidence on record, which amounts to be an error, and is liable to be reviewed, may kindly be reviewed.
- B- That the removal order issued by the respondents, against which the appellant filed a departmental appeal before respondent No 3 on which inquiry has been conducted and the inquiry committee recommended that the appellant may be reinstated without back benefits converting intervening period into leave without pay.
- C- That the appellant after the findings of the inquiry committee, approached to respondent No 2 for his reinstatement, but they refused the same and the appellant filed the instant service appeal before this Honourable Tribunal for his reinstatement into his service with all back benefits, but this Honourable Tribunal while deciding the appeal of the appellant has held that "*resultantly vide order dated 17/02/2017, he was removed from service, that feeling aggrieved he filed departmental appeal, which was accepted vide order dated 12/12/2018, appellant was reinstated into service, however, back benefits were denied to him, hence, the service appeal.*"

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- D- That this August Tribunal without considering the record available in the Service Appeal and especially the impugned order dated 17/02/2017 for which the attention of this august Tribunal is very much necessary, because after filing departmental appeal, the inquiry committee only recommended the appellant for reinstatement, but the respondent did not do so for the reason that the appellant filed the instant service appeal for his reinstatement.
- E- That it is a settled principal of law that the authority issuing an order shall be competent to review the same and to avoid miscarriage of justice.
- F- That if the mentioned facts are not removed in the judgment dated 01/10/2024 of this Honourable Tribunal, the same will prejudice the rights of the petitioner/appellant, as the same is not according to the materials on the record.
- G- That the said order and judgment dated 01/10/2024 is not passed by proper reflection of available record.
- H- That petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore humbly prayed that on acceptance of this Review petition the order and judgment dated 01/10/2024 may very kindly be reviewed/set aside, while accepting the appeal of the petitioner/appellant; the petitioner /appellant may kindly be reinstated into his service with all back benefits.

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Any other relief, which this Honourable Tribunal may deem fit in the circumstances may also be awarded in favour of petitioner/appellant.

Dated: 06/11/2024

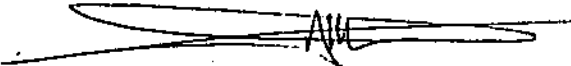
PETITIONER/APPELLANT

THROUGH:


MUHAMMAD ILYAS ORAKZAI
ADVOCATE SUPREME COURT
OF PAKISTAN

CERTIFICATE:

It is hereby certified that the instant petition in hand is fit case for review and pertains to DB.


DEPONENT

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Honourable Tribunal, so the delay (if any) accrued is not intentional, but due to the above facts and circumstances.

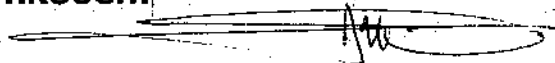
- D- That the facts and grounds of accompanied review petition may kindly be considered as integral part and parcel of instant application.
- E- That on the face of it, the applicant/ petitioner has got strong arguable case and is sanguine about its success.

It is therefore prayed that on acceptance of this application the delay in filing the above noted review petition may please be condoned.

Dated: 06/11/2024

PETITIONER/APPELLANT

THROUGH:



MUHAMMAD ILYAS ORAKZAI
Advocate Supreme Court
of Pakistan

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ANNEX "A"

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 4295 /2020

Mr. Muhammad Ashraf TT GPS Ibrahimio Tehsil Central
Orakzai Agency.....
.....Appellant.

Versus

1. The Secretary (Elementary and Secondary Education) Khyber Pakhtunkhwa, Civil Secreteriat, Peshawar.
2. District Education Officer (male) District Hangu...
3. Director Education (Elementary and Secondary Education) Khyber Pakhtunkhwa, Civil Secreteriat, Peshawar.

..Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNALS
ACT, 1974.

Respectfully Sheweth,

1. That appellant the appellant was appointed in the respondents' department on dated 23/11/2009 as Theology Teacher; he has got more than 08 years of service to his credit with unblemished and clean-sheeted conduct record. No complaint or adverse entry has ever been made against him during the above-mentioned period.

(Copy of the appointment letter is attached as Annexure-A).

[Handwritten signature]

16-10-20

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5. (2)

2. That after appointment the Appellant was posted to Government Primary School, Ibrahim, District Hangu.
3. That the appellant performed his duties at the said School Ibrahim for 2 years but due to security reasons the said School was closed and the appellant was posted to Government Primary School Bagato District Hangu. The Appellant despite receiving threats continued his work and performed his duties to the entire satisfaction of the superiors.
4. That the appellant during his service become ill due to heart attack but even then the plaintiff performed his duties with deteriorating health.
5. That the Respondents on 17/02/2017, without adopting the due course of law, removed the appellant from service illegally and without any justification.
(Copy of order dated 17/02/2017 is attached as Annexure - B)
6. That appellant being aggrieved of above-mentioned acts preferred departmental representation before the respondents, which appeal was accepted vide order dated 12/12/2018 and the appellant was re-instated in the service. However, the said re-instatement was without back-benefits and converted the intervening period into leave without pay.
(Copy of minutes of Appellate committee is attached as Annexure - C)
7. That after the disposal of the Appeal the Appellant approached to the concerned authorities for reinstating

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of the appellant and for releasing the monthly salary but till today the respondents, on one pretext and other, are not willing for posting and to release the salary of the appellant.


(Copies of the applications are attached herewith as Annexure-D)

8. That appellant, being aggrieved of the acts and actions of Respondents and having no other adequate and efficacious remedy, files this appeal on the following grounds, inter-alia:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973.
- B. That in the instant case the respondents deliberately delayed the process of appellant, therefore, the in action/delayed action of the respondents is the violation of public trust vested in them, which is not only unwarranted at law, but also highly undesirable.
- C. That the omission of the respondents of not posting the appellant nor releasing his salary clearly shows the malafide intentions of the respondents, which warrant interference of this Hon'ble Tribunal.
- D. That appellant also seeks the permission of this Honourable Tribunal, to advance some more grounds at the time of arguments.

It is therefore humbly prayed that on acceptance of this appeal, this Honourable Tribunal may graciously be


K. M. A. Khan
11/11/2011

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pleased to direct the respondents to post the Appellant and release the salary of the appellant,

Furthermore, the appellant may kindly be awarded back benefits and the intervening period may kindly be converted into leave with pay.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

محمد اشرف

ATTESTED
[Signature]
[Faint text]

Through

Appellant

Saif ullah Khan Khali,
&
Murtaza Qureshi
Advocate, Peshawar

[Signature]

Dated: _____ / 02/ 2020

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3.5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2020

Mr. Muhammad Ashraf TT GPS Ibrahimo Tehsil Central Orakzai Agency.....Appellant.

Versus

The Government of Khyber Paktunkhwa through Chief Secretary, Civil Secreteriat, Peshawar

Affidavit.

I Mr. Muhammad Ashraf TT GPS Ibrahimo Tehsil Central Orakzai Agency do hereby affirms on Oath that the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

محمد اشرف

Deponent.

Certified to be true copy

Khyber Pakhtunkhwa Service Tribunal Peshawar

16-10-24

Khyber Pakhtunkhwa Service Tribunal Peshawar
Application No. _____
Date of filing _____
Number of pages _____
Counsel for Appellant _____
Counsel for Respondent _____
Date of hearing _____
Date of decision _____
16-10-24
16-10-24
16-10-24

(W) Annex B

Restoration Application No.1115/2024 of, and order in Service Appeal No.4295/2020 titled
"Muhammad Ashraf Vs. Government of Khyber Pakhtunkhwa"

ORDER

1st Oct. 2024

1. Learned counsel for the applicant present. Mr. Muhammad Jan,
District Attorney for respondents present.

2. Arguments on the restoration application as well as main
service appeal were heard.

3. Restoration application filed by the appellant accepted and the
main appeal stands restored on its original number.

4. Brief facts, as per averments of the main appeal, are that
appellant was appointed on 23.11.2009; that she was serving at GPS
Ibrahim, District Hangu; that due to security issues, the said school
was closed and the appellant was posted at GPS Bagato, District
Hangu; that due to illness, appellant remained unable to attend the
duties; that resultantly, vide order dated 17.02.2017 he was removed
from service; that feeling aggrieved, he filed departmental appeal
which was accepted and vide order dated 12.12.2018 appellant was
reinstated into service, however, back benefits were denied to him,
hence, the service appeal.

5. The appellant is aggrieved of not implementing the
recommendations of the departmental appeal, the meeting of which
was held on 12.12.2018. There is an application filed on 02.01.2020
which shows that the same was filed after a delay of one year and
twenty days which is barred by time in view of Section-4 of the
Khyber Pakhtunkhwa Service Tribunal Act, 1974. The same is
reproduced as under:



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16-10-24

