


Form-A  
FORM OF ORDER SHEET

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

Restoration Application No. 1379/2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	15.11.2024	<p>The application for restoration of Service Appeal No. 1227/2022 submitted today by Mr. Qaiser Hussain Advocate. It is fixed for hearing before Division Bench at Peshawar on 22.11.2024. Parcha Pehsi given to counsel for the applicant.</p> <p>By order of the Chairman  REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,  
PESHAWAR.

R.A No:-1379/2024

Appeal No.1227/2022

Imtiaz Khan.....Appellant

VERSUS

Regional Police Officer, Mardan and others.....Respondents

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S.No.	Description of documents.	Annexure	Pages.
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2	Attested copy of order dated 04.11.2024	A	3-7

Dated: 15-11/2024

ایم تیاز خان

Appellant

Through

Qaiser Hussain

&

Murad Ali Safi  
Advocates,

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,

PESHAWAR.

R.A No. 1379/2024

Appeal No. 1227/2022

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 17974

Dated 15/11/24

Imtiaz Khan son of Umar Din  
Ex-Constable 2916 District Police, Mohmand.....Appellant

VERSUS

- 1) Regional Police Officer, Mardan.
- 2) Inspector General of Police, KPK, Peshawar.
- 3) District Police Officer, Mohmand .....Respondents

APPLICATION FOR RESTORATION OF  
THE ABOVE NOTED APPEAL DISMISSED  
IN DEFAULT ON 04/11/2024

*Respectfully Sheweth;*

Applicant submits as under:


- 1) That the above noted appeal was fixed on 04.11.2024 and dismissed in default. (Copy of order is attached).
- 2) That earlier the titled appeal was fixed on 30.10.2024, which was adjourned due to non-availability of the senior counsel on the date fixed but no date was given because the case are being fixed online.
- 3) That when on 04.11.2024 the undersigned/ counsel for appellant checked the case status at about 12:30 pm, it was revealed that the case has been fixed for 04.11.2024, but when the undersigned appeared before the hon'ble Tribunal, where he was informed that the case/ appeal has been dismissed in default, hence this application.
- 4) That the application is well within time from the date of knowledge.

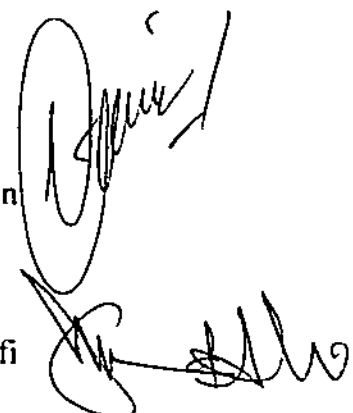
- 5) That the non-appearance of the counsel as well as of the appellant is neither willful nor deliberate but due to the above mentioned reason.
- 6) That superior courts of the country always favour adjudication of the cases on merits rather than on technicalities and there is no legal impediment in 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.

NOTE:


Wakalat Nama has already been placed on original file.


  
 Appellant  
 Through  
 Qaiser Hussain  
 &  
 Murad Ali Safi  
 Advocates,



AFFIDAVIT

I, Imitaz Khan (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 and nothing has been concealed from this Hon'ble Court.



  
 15/11/24

  
 Deponent

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

CP/1  
03/05/2022  
M D Y

Appeal No. 1227/2022

Imtiaz Khan son of Umar Din  
Ex-Constable 2916 District Police, Mohmand.....Appellant

VERSUS

- 1) Regional Police Officer, Mardan.
- 2) Inspector General of Police, KPK, Peshawar.
- 3) District Police Officer, Mohmand .....Respondents

APPEAL U/S 4 OF SERVICE TRIBUNAL  
ACT, 1974 AGAINST THE ORDER DATED  
13.06.2022 OF RESPONDENT NO.1  
WHEREBY RESPONDENT NO.1  
DISMISSED THE DEPARTMENTAL  
APPEAL OF THE APPELLANT AGAINST  
THE ORDER DATED 21.12.2021 OF  
RESPONDENT NO.3 WHEREBY  
APPELLANT WAS DISMISSED FROM  
SERVICE.

A m

Prayer:

On acceptance of this appeal, that the appellant be reinstated into his service with all back benefits by setting aside order dated 13.06.2022 of respondent No.1 and order dated 21.12.2021 of respondent No.3.

Any other remedy which this Hon'ble Tribunal deems fit in the circumstances of the case may kindly also be granted.

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

12-11-24

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Respectfully Sheweth:-  
Appellant humbly submits as under:-

- 1) That initially the appellant was appointed Khasadar vide appointment dated 10.06.2013 in Shuhada Qouta. (Copy of order is attached).
- 2) That after merger of tribal areas into settled the services of appellant was converted into Police as constable No.2916.
- 3) That the appellant was serving the department to the best of his abilities for 09 longstanding years and has never given chance of displeasure to his superiors during his service.
- 4) That without any reason the alleged inquiry was initiated by the respondents against the appellant in his absence and neither any notice has been served nor any chance of fair opportunity of hearing was given to the appellant and ultimately major penalty of dismissal from service was imposed vide impugned order dated 21.12.2021 by respondent No.3. (Copies of charge sheet, statement of allegation and dismissed order, dated 21.12.2021 are attached).
- 5) That the impugned order was not served/ communicated to the appellant rather after getting knowledge the same was obtained by the appellant on 12.04.2022 from the department after the lapse of almost 4 months.
- 6) That being aggrieved, soon after receiving the impugned order the appellant preferred departmental appeal to respondent No.1 against the dismissal order of appellant, which was also dismissed on 13.06.2022 without any solid reasons. (Copy of order is attached).
- 7) That now the appellant prefers the instant appeal, on the following grounds:

ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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GROUND.

- A. That the impugned orders of respondents No.1 and 3 are against the law, facts and available material on record, hence not tenable in the eyes of law and also violative of Article 4 of the Constitution of Islamic Republic of Pakistan.
- B. That no regular inquiry was conducted by the respondents to substantiate the so-called allegation viz-a-viz the willful absence of the appellant for a period of one year four months and twenty eight days which is a mandatory requirement of law before imposition of major penalty upon him.
- C. That since alleged inquiry was dispensed-with, therefore, no proper opportunity of proper defence was provided to the appellant to furnish justification with reasoning, hence his defence was materially prejudice, therefore, the competent authority as well as the appellate authority reached to an erroneous conclusion viz-a-viz the charge of willful absence from duty and that too for a period of 1 ½ year.
- D. That the impugned orders are also violative of section 24-A of General Clauses Act as the authorities failed to pass a speaking order with reasons.
- E. That no opportunity of personal hearing was afforded to the appellant which is a flagrant violation of Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, hence the appellant was condemned unheard.
- F. That the respondents were legally bound to issue notice regarding absence of appellant/ employee and similarly publish notice in two leading newspapers according to Khyber Pakhtunkhwa Government Servant (E&D) Rules, 2011, but respondents failed to do so.
- G. That no statement of allegation or charge sheet was served upon the appellant before proving him guilty of the

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

charges which factum is violative of the established principles of natural justice.

It is pertinent to mention that the so-called proceedings were carried out at the back of appellant, which is violative of mandatory provisions of Article 10-A of the Constitution of Pakistan.

- H. That the appellant has every right of reinstatement into his service to support his family.
- I. That appellant was dismissed from service without following the proper procedure.
- J. That appellant reserve the right to agitate any other ground at the time of arguments.
- K. That there is any delay in filing the instant appeal, which may kindly be condoned.

Keeping in view, what has been stated above, it is, therefore, humbly prayed that the appellant be reinstated into his service with all back benefits by setting aside order dated 13.06.2022 of respondent No.1 and order dated 21.12.2021 of respondent No.3.

Dated: 04.08.2022

Appellant  
Through  
Kaiser Hussain

&  
Murad Ali Safi  
Advocates High Court

Certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

12-11-24

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.

Note  
As per instruction of my client no such like appeal has already been file before this Hon'ble court.

Deponent



Deponent





Khyber Pakhtunkhwa Service Tribunal, Peshawar

Application No. 610 Date 12-11-24  
Name of Applicant Majid Ali  
Number of Words/Pages 4-1  
Copying Fee 28/-  
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**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**



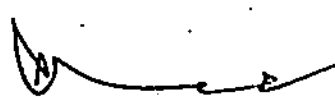
Service Appeal No. 1227/2022

Imtiaz Khan versus Government of Khyber Pakhtunkhwa

S.No. of Order & Date of proceeding	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
<p>Order-14 4<sup>th</sup> November, 2024.</p>	<p><b>Mr. Kalim Arshad Khan, Chairman:</b></p> <p>Present:</p> <ol style="list-style-type: none"> <li>None for the appellant.</li> <li>Syed Naseer Ud Din Shah, Assistant Advocate General for the respondents.</li> <li>The case was called several times till last hours of the court but nobody turned up on behalf of the appellant. Therefore, the appeal in hand is dismissed in default. Consign</li> <li><i>Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 4<sup>th</sup> day of November, 2024.</i></li> </ol>

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 EX. 1227/2022  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar  
 12-11-24

  
 (Rashida Bano)  
 Member(J)

  
 (Kalim Arshad Khan)  
 Chairman

\*Adnan Shah\*

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Application No. 610 Date 12-11-24

Name of Applicant Munir Ali Advi

Number of Words/Pages 1-1

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