

The civil misc. application in appeal no. 443/2024 received today i.e. on 30.07.2024 is returned to the counsel for the applicant with the following remarks.

- 1- Two more copies/sets of memo of application along with annexures may also be submitted with the application.

No. 486 /Inst./2024/KPST,

Dt. 30/7 /2024.

Amalullah
ASSISTANT
KHYBER PAKHTUNKWA
SERVICE TRIBUNAL
PESHAWAR

Akbar Ali Adv.
High Court Peshawar.

Respect Sir,

The instant application resubmitted after removing the aforesaid objection. Hence, resubmitted.

Persef
Counsel for Applicant
31-07-2024.

(1)

Before the Khyber Pakhtunkhwa Service Tribunal,
Peshawar

C.M. No. 821 /2024

In Re:

Service Appeal No. 443-P/2024

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 14587
Dated 30/7/24

Naeem Khan GIS Manager, CDE& GAD Directorate of Forest Department,
Khyber Pakhtunkhwa, Peshawar.....**Applicant**

---VERSUS---

Alamzeb Digitizing Operator BPS-16 Climate Change, Forestry, Environment
and Wildlife Department, Peshawar.....**Respondent**

APPLICATION FOR SETTING ASIDE EXPARTE
PROCEEDINGS INITIATED AGAINST
APPLICANT/ PRIVATE RESPONDENT NO.02VIDE
ORDER DATED 23.07.2024.

Respectfully Sheweth:

1. **That** the above titled Service Appeal is pending adjudication before this Hon'ble Court and which is now fixed for 29.10.2024.
2. **That** the above titled Service Appeal was fixed for submission of Replies on behalf of Respondent(s) (both official & Private) but unfortunately ex-parte proceedings have been initiated against the applicant/ Private Respondent No.02 on 23.07.2024.
(Copy of the order sheet is attached herewith)
3. **That** applicant/Private Respondent No.02 is aggrieved from the order dated 23.07.2024 and prays for setting aside the ex-parte order/proceedings on the following amongst other grounds:

GROUND:

- A. **That** the applicant/ Private Respondent No.02 appeared and marked his attendance with the reader of the bench (Tribunal) while the counsel for the applicant/ Private Respondent No.02 was busy in Peshawar High Court, Peshawar in some cases and at the time of calling the above titled appeal, applicant/ Private Respondent No.02 was in institution branch of the Hon'able Tribunal as he was submitting an application in the above titled Appeal, when turned back to the bench, the reader of the bench informed the applicant/ Private Respondent No.02, that the case has

been adjourned to 29.10.2024 and he has been placed ex-parte.

(Copies of Cause list and institution slip is attached herewith).

- B. That** the applicant/ Private Respondent No.02, when comes in to the knowledge about the ex parte proceedings, he there & then applied for attested copies of the Order sheets and after getting the same, submitted the instant application, which is well within in time. Hence, order of ex-parte proceedings dated 23.07.2024 is liable to be set aside.
- C. That** the absence of the applicant/ defendant was neither intentional nor deliberate but was due to aforesaid reason(s). Hence, the ex-parte order/ proceedings are liable to be set aside in the best interest of law and justice.
- D. That** the applicant/ defendant will attend in future this Hon'able Tribunal personally or through attorney or through counsel regularly.
- E. That** any other ground though not specifically asked in the circumstances may be raised at the time of arguments with the prior permission of this Hon'ble Court.

In view of the above facts and circumstances, It is, therefore, most humbly prayed that on acceptance of this petition/application, order of ex parte proceedings dated 23.07.2024 may kindly be set aside and the above service appeal be decided on its own merits according to law.

Dated: 29.07.2024

Jaecm
Applicant/ Private Respondent No.02

Through

Akbar Ali
Akbar Ali,
Advocate, Peshawar.

Affidavit

It is solemnly affirm and declare that the contents of the above petition are true and correct to the best of knowledge and belief and nothing has been concealed or misstated before this Hon'ble Tribunal.

Jaecm
DEPONENT



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**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**



Appeal No. 443/2024

**Alamzeb Digitizing Operator BPS-16 Climate Change,
Forestry, Environment and Wildlife Department Peshawar.**

(Appellant)

VERSUS

1. Secretary to Govt of Khyber Pakhtunkhwa, Forestry, Environment & Wildlife Department Civil Secretariat, Peshawar.
2. Naeem Khan, Digitizing Operator BPS-16, Climate Change, Forestry, Environment and Wildlife Department Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, whereby the not promoting the appellant to the post of GIS Analyst BPS-17 against which the appellant filed his departmental appeal vide dated 14.11.2023 which is not yet respondent even after the lapse of statutory period of 90 days.

Prayer in appeal:

On acceptance of this appeal the appellant may declared fit and eligible for the post GIS Analyst BPS-17, and to consider/promote the appellant to the post of GIS Analyst BPS-17, the inaction of the respondent by not considering/promoting the appellant is this to be declared illegal, unlawful and without lawful authority, with necessary directions the promotion be given effect upon the eligibility for the post in

ATTESTED
[Signature]
29-7-23
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

23rd July, 2024

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1. Junior to counsel for the appellant and Mr. Umair Azam, Additional Advocate General present.
2. Despite last chance, reply was not submitted nor anybody is present on behalf of the respondents. Therefore, they are placed ex-parte. To come up for ex-parte arguments on 29.10.2024 before D.B. P.F given to the appellant's junior counsel.

(Kalim Arshad Khan)
Chairman

Murazem Shah

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

29/7/24

Date of Presentation of Application 23-7-2024
 Number of ~~Words~~ page 2
 Copying Fee 10/-
 Urgent ✓
 Total 10/-
 Name of Copyist Abdul
 Date of Completion of Copy 24-7-24
 Date of Entry 29-7-24

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PESHAWAR HIGH COURT, PESHAWAR

DAILY LIST FOR TUE, 23 JULY, 2024

BEFORE:-

MR. JUSTICE SHAKEEL AHMAD

Court No: 4

MOTION CASES

26	W.P 3416/2024 with IR (Family-Final Judgment) (232325)	Jehangir V/S Mst. Haleema and others	Mr Akbar Ali <hr/>
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27	Cr.A 601/2024 with Cr.M 371/2024 (Acquittal Appeal- Illegal dispossession Act) (232287)	Akhtar Ali and Another V/S Iqtidar and Others	Mr Aftab ud Din <hr/> Cr Appeal Branch AG Office
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NOTICE CASES

1	Cr.M(BA) 2566/2024 (Criminal Miscellaneous-Bail Application-PPC) (232636)	Qaid Ali V/S The State and others	Mr Syed Mubashir Shah (Swabi) <hr/> Cr Appeal Branch AG Office
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2	E.A 198/2024 with CM.56/24(N) (Civil Appeal Br) (Civil Appeal-Civil Appeal) (231780)	Kamran Mehmood Khattak V/S (Date By Court) Ayaz Khan and others	Mr Naveed Akhtar <hr/> Mr Mohsin Kamran Siddiq
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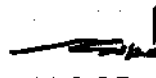
3	C.R 330/2015 (Against decree) (Decree-Declaration) (85984)	Muhammad Ishaq and others V/S (Date By Court) Dr. Abdul Hameed and others	Mr Adnan Aman <hr/> Mr Abdul Sattar Khan
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4	C.R 308/2022 (Civil Revision-Decree) (190827)	Wali Ullah Khan & others V/S Fayaz Ali Shah etc	Syed Kausar Ali Shah (Mardan) <hr/> Mr Abdul Rasheed Pirzada
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ATTSTED
[Signature]

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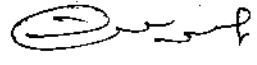
PESHAWAR HIGH COURT, PESHAWAR
ORDER SHEET

DATE OF ORDER OF PROCEEDINGS	ORDER OF OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE
23.07.2024	<p><u>WP No.3416-P/2024.</u></p> <p>Present:</p> <p><i>Mr. Akbar Ali, Advocate for the petitioner.</i></p> <p>***</p> <p>Inter-alia contends that para No.2 of the judgment of the learned Appeal Court to the extent that appeal does not lie against the judgment and decree for dissolution of marriage on the basis of cruelty before the District Judge, is result of misconception; that the appeal against the judgment and decree for dissolution of marriage as specified in Clause (a) of Item (viii) of section 2 of the Dissolution of Muslim Marriages Act, 1939 lies before the District Judge. In support of his contention, placed reliance on the judgment reported as "<u>Fazal Rahman and others vs. Mst. Fahmida and others</u>" (PLD 2022 Peshawar 1). Point urged needs consideration. Since a short question of law is involved, let pre-admission notice be issued to the other side for <u>18.09.2024.</u></p> <p style="text-align: right;"> JUDGE</p>

SB Hon'ble Mr. Justice Shakeel Ahmad

Himayat GS

ATTSTED



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KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL

Inst No: 14417
Misc

443/2024
ALAMZEB
VS
Forest

Advocate: AKBAR ALI (1787)
22/07/2024 17:15:12
Hearing Date 23/7/2024
Hearing: Peshawar
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