


1026/2017


13.03.2017


Mr. Hamayun Khan, Advocate for appellant and submitted Wakalatnama. Mr. Fakhar Saeed, ADO alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Counsel for the appellant informed the Tribunal that the appellant has died and submitted list of legal heirs of the appellant. Office shall make entries accordingly. He also requested for adjournment to prepare rejoinder. To come up for rejoinder and final hearing for 18.07.2017 at camp court, Abbottabad,

  
Chairman  
Camp court, A/Abad

18.07.2017


Counsel for the applicants and Mr. Muhammad Bilal, DDA alongwith Mr. Fakhar Saeed, ADO for respondents present. Rejoinder submitted. Counsel for the applicants seeks adjournment. Adjourned. To come up for final hearing on 18.12.2017 before D.B at Camp Court A/Abad.


  
Member

  
Chairman  
Camp court, A/Abad

18.12.2017

Clerk of the counsel for appellant present and submitted Wakalatnama of Mr. Arshed Khan Tanoli, Advocate. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 20.02.2018 before D.B at Camp Court Abbottabad.

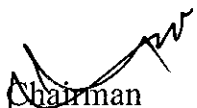
  
(Gul Zeb Khan)  
Member (Executive)  
Camp Court Abbottabad

  
(Muhammad Amin Khan Kundi)  
Member (Judicial)  
Camp Court Abbottabad

20.02.2018

Counsel for the appellant and Addl. AG alongwith, Fakhar Saeed, ADO for the respondents present. Counsel for the appellant seeks adjournment. To come up for arguments on 19.04.2018 before the D.B B at camp court A/Abad.

  
Member

  
Chairman  
Camp court, A/Abad.

19.04.2018

Counsel for the appellant Mr. Usman Ghani, District Attorney alongwith Fakhr Saeed, ADO for the respondents present. The court time is over. Adjourned. To come up for arguments on 28.06.2018 before the D.B at camp court, Abbottabad.

  
Member

  
Chairman  
Camp court, A/Abad

28.06.2018


Mr. M. Daud, clerk of counsel for the appellant present. Mr. Fakhar Saeed, ADO (Lit) alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Clerk of counsel for the appellant requested for adjournment. Granted. Case to come up for arguments on 28.08.2018 before D;B at camp court, Abbottabad.

  
Member

  
Chairman

28.08.2018

Counsel for the appellant and Fakher Saeed ADO for the respondents present. Due to summer vacations, the case is adjourned. To come up for the same on 17.10.2018 at camp court Abbottabad.

  
Reader

17.10.2018

Mr. Daud, Clerk of counsel for Mr. Arshed Khan Tanoli, Advocate present. Mr. Usman Ghani, District Attorney for the respondents present. It was brought into the notice of this Tribunal that the appellant has died and the question of jurisdiction is involved and such like cases have been referred to Larger Bench. As such, to be placed before the Larger Bench at Principal Seat Peshawar, whenever it is fixed at Peshawar. on 11-12-2018

  
Member

  
Chairman  
Camp Court, A/Abad

11.12.2018

Bench incomplete. Adjourn. To come up on 03.01.2019 before larger bench.

  
Member

  
Member

03.01.2019 Nemo for appellant. Mr. Muhammad Jan, DDA for the respondents present.

On 11.12.2018 the Larger Bench was not complete, therefore, instant case was adjourned for hearing today. Let notice for next date be issued to appellant/counsel who shall also furnish five complete sets of the brief.

Adjourned to 29.01.2019 for arguments before the Larger Bench.

  
Chairman

  
(M. Hamid Mughal)  
Member

  
(M. Amin Khan Kundi)  
Member

  
(Ahmad Hassan)  
Member

  
(Hussain Shah)  
Member

Abdul

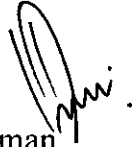
29.1.2019

Mr. Hussain Ahmad son of deceased appellant and Mr. Muhammad Jan, DDA for the respondents present.

In the instant matter five sets of brief have not yet been provided. The needful be done within a fortnight. Adjourned to 14.03.2019 for arguments before the Larger Bench.



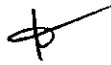
(M. Hamid Mughal)  
Member



Chairman



(M. Amin Khan Kundi)  
Member



(Ahmad Hassan)  
Member



(Hussain Shah)  
Member

14.03.2019

Mr. Hussain Ahmad son of appellant and Mr. Muhammad Jan, DDA for the respondents present.

Learned Member of Tribunal (Mr. Hussain Shah) is still indisposed, therefore, this appeal is adjourned to 02.05.2019 for arguments before the Larger Bench.



(M. Hamid Mughal)  
Member



Chairman



(M. Amin Khan Kundi)  
Member



(Ahmad Hassan)  
Member

02.05.2019

Counsel for the appellant and Addl: AG for respondents present.

Due to leave of one of learned Members (Mr. Ahmad Hassan), the instant matter is adjourned to 11.07.2019 for arguments before Larger Bench.

  
(Mr. Hamid Mughal)  
Member

  
Chairman

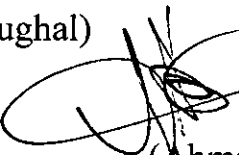
  
(Hussain Shah)  
Member


  
(M. Amin Khan Kundi)  
Member

11.07.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Due to engagement of Member of this Tribunal (Mr. Muhammad Amin Khan Kundi and Mr. Hussain Shah) at Camp Court Abbottabad, the instant matter is adjourned to 29.08.2019 before Larger Bench.

  
(Muhammad Hamid Mughal)  
Member

  
(Ahmad Hassan)  
Member

  
Chairman

29.08.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Mr. Muhammad Amin Khan Kundi Member of this Tribunal is on tour to Camp Court D.I Khan, therefore, the instant matter is adjourned to 14.11.2019 for arguments before Larger Bench.



(Muhammad Hamid Mughal)  
Member



Chairman



(Hussain Shah)  
Member



(Ahmed Hassan)  
Member

.. Legal heirs

14.11.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present.

Learned District Attorney at the outset pointed out that although instant appeal has been fixed for hearing before the Larger/Full Bench but there is no formulation of legal/factual proposition to be considered by the Bench.

During the discussion it revealed that this Tribunal has already handed down atleast two judgments regarding the abatement of appeal of a civil servant upon his demise. Apart from that some judgments by the August Supreme Court as well as learned Federal Service Tribunal have also been referred to which essentially touch the proposition.

We, therefore, consider it appropriate to remove instant appeal from the list of Larger/Full Bench and assign it to a Division Bench for decision in accordance with law after hearing learned counsel for the parties.

Adjourned to 15.01.2020 before a Division Bench.



(M. Hamid Mughal)  
Member



Chairman



(Ahmad Hassan)  
Member



(M. Amin Khan Kundi)  
Member



(Hussain Shah)  
Member



15.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant appeal is adjourned to 13.02.2020 for further proceedings/arguments before D.B.



Member



Member

13.02.2020

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Abdul Jalil, Assistant for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 18.03.2020 for arguments before D.B.



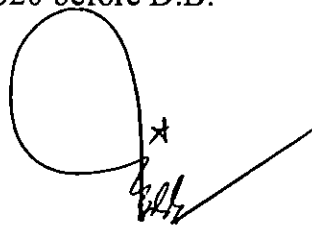
(Hussain Shah)  
Member



(M. Amin Khan Kundi)  
Member

18.03.2020

Counsel for the appellant present. Addl: AG alongwith Mr. Munir Akhtar, ADEO and Mr. Sajid, Supdt for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.04.2020 before D.B.



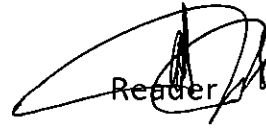
(MAIN MUHAMMAD)  
MEMBER



(M. AMIN KHAN KUNDI)  
MEMBER

8-6-2020

Due to COVID19, the case is adjourned to  
~~6/7~~2020 for the same as before.

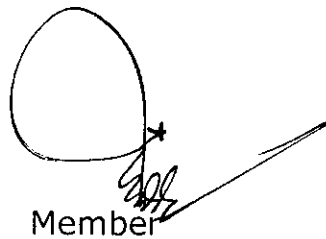
  
Reader

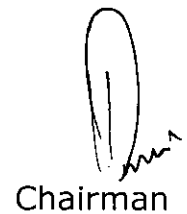
06.07.2020

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney for the respondents present.

Former requests for adjournment for further preparation of brief.

Adjourned to 28.08.2020 before D.B.

  
Member

  
Chairman

28.08.2020

Due to summer vacation, the case is adjourned to  
03.11.2020 for the same as before.

  
Reader

03.11.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 11.1.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member

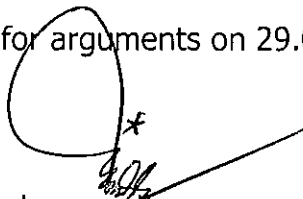
  
Chairman


11.01.2021

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 29.01.2021 before D.B-I.


  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)

29.01.2021

Counsel for the appellant and Addl. AG for respondents present.

Former requests for adjournment in order to further prepare the brief. Adjourned to 24.03.2021 before D.B.

  
(Atiq Ur Rehman Wazir)  
Member(E)

  
Chairman

24.03.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for respondents present.

Former requests for adjournment as learned senior counsel for the appellant is indisposed.

Adjourned to 15.06.2021 for arguments before D.B.

Chairman

(Atiq-ur-Rehman Wazir)  
Member (E)

Postscript

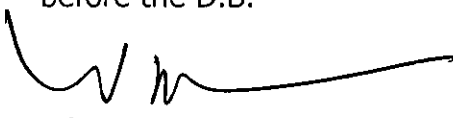
26.05.2021

The order dated 24.03.2021 was written but could not be signed by the D.B including the then Chairman who due to unforeseen reason could not attend the office in coming days. He died in the meantime and the order sheet was left unsigned. To bring the proceedings of appeal on track, it is become expedient for ex-post facto completion of the order sheet. The unsigned order dated 24.03.2021 is reproduced below which be given effect accordingly:-

"Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for respondents present.

Former requests for adjournment as learned senior counsel for the appellant is indisposed.

Adjourned to 15.06.2021 for arguments before the D.B."

  
(Atiq-ur-Rehman Wazir)  
Member

  
Chairman

15.06.2021

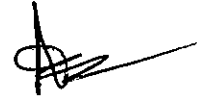
Junior to counsel for appellant present.

Muhammad Adeel Butt learned A.A.G for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 20.10.2021 before D.B.



(Rozina Rehman)  
Member (J)

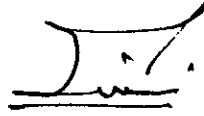


Chairman

20.10.2021

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Former sought adjournment for preparation of brief; granted. Case to come up for arguments on 22.02.2022 before D.B.



(Salah-Ud-Din)  
Member (Judicial)



Chairman

22.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 19.05.2022 for the same as before.




Reader.

19.05.2022

Junior of learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Learned Member (Judicial) Ms. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 19.07.2022 before the D.B.



(Salah-ud-Din)  
Member (Judicial)

19.07.2022


Learned counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

For just decision of case, respondents are directed to produce Teacher Attendance Register of the School, statement of inhabitants/parents of the said village, all statements of the Headmaster and staff of GMS Mangri Kamosar and surprise visit of respondent No.5 dated 20.06.2012. It is worth mentioning that all these documents have properly been mentioned by the respondents in their written comments but the same were never produced before the Bench. In this view of the matter, they are directed to do the needful. To come up for production of record and arguments on 12.09.2022 before D.B.



(Fareeha Paul)  
Member(E)




(Rozina Rehman)  
Member (J)

12.09.2022

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

Mr. Mian Muhammad, learned Member (Executive) is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 28.11.2022



(Salah-Ud-Din)  
Member (J)


28<sup>th</sup> Nov. 2022

Junior to learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant A.G for the respondents present.

Junior to learned counsel for the appellant seeks adjournment due to engagement of learned senior counsel for the appellant in Honourable High Court today. This being old case of 2014, last opportunity is granted to the appellant to argue the case, failing which the case will be decided on the basis of available record without the arguments. This appeal pertains to Camp Court Abbottabad, therefore, to come up for arguments on 24.01.2023 before the D.B at camp court, Abbottabad.



(Fareeha Paul)  
Member (E)



(Kalim Arshad Khan)  
Chairman





## Form- A

## FORM OF ORDER SHEET

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

Case No. 1026/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07/08/2014	<p>The appeal of Pir Fazal-e-Hakeem resubmitted today by Mr. Zahid Mehmood Qureshi Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	25-8-14	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up there on <u>16-2-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3.	16.2.2015	<p><b>Appellant with counsel present.</b></p> <p>Argued that the appellant was initially appointed as A.T on 13.11.1994 and was, during the course of service, adjusted against a newly created post at GMS Mangri-Kamosar on 23.5.1999. That the appellant was never absent from duty nor has committed any irregularity etc during the said posting. That he was illegally removed by respondent No.5 from service vide impugned order dated 18.9.2012 against which the appellant preferred departmental appeal on 27.10.2012 and thereafter the instant appeal on 7.8.2014. That</p>



the impugned order is void ab-initio, therefore, no limitation would run against the appellant. Let pre-admission notice be issued to the respondents for 17.3.2015 at camp court A/Abad.

  
Chairman  
Camp Court A/Abad

4 17.03.2015 Counsel for the appellant and Mr. Muhammad Tahir Aufangzeb, G.P for respondents present. Learned counsel for the appellant requested for further time. Adjourned for preliminary hearing before S.B to 20.5.2015 at camp court A/Abad.

  
Chairman  
Camp Court A/Abad

5 20.5.2015 Agent of counsel for the appellant and Mr. Abdullah, EDO Tor Ghar in person alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Counsel for the appellant is stated indisposed. Adjourned for preliminary hearing to 17.6.2015 before S.B at camp court A/Abad.

  
Chairman  
Camp Court A/Abad

6

17.06.2015

Appellant with counsel and Mr. Fakhar Said, ADO alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Learned counsel for the appellant argued that the impugned order was not passed by competent authority and as such the same is void. In the light of the order sheet dated 16.2.2015, the appeal is admitted to regular hearing, subject to limitation. Security and process fee be deposited within 10 days, whereafter notices be issued to the respondents for written reply for 18.8.2015 before S.B at camp court A/Abad.

Appellant Deposited  
Security & Process Fee



  
Chairman  
Camp Court A/Abad

18.08.2015

Agent of counsel for the appellant and Mr. Abdullah, DEO Torghar alongwith Mr. Muhammad Tahir Aurangzeb, GP for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 17.12.2015. at camp court A/Abad.

  
Chairman  
Camp Court Abbottabad

17.12.2015

Appellant with counsel and Mr. Zahid Ayaz, Senior Auditor for respondent No. 6 alongwith Mr. Muhammad Siddique, Sr.GP for all respondents present. Due to non-availability of D.B, appeal to come up for rejoinder and final hearing before D.B on 17.5.2016 at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

17.05.2016


Counsel for the appellant and Mr. Muhammad Siddique Sr.GP for respondents present. Counsel for the appellant seeks adjournment. Adjourned for rejoinder and final hearing 22.11.2016 at camp court, Abbottabad.

  
Member

  
Chairman  
Camp court, A/Abad,

22.11.2016

Appellant in person and Mr Fakhar Said, ADO alongwith Mst. Bushra Bibi, Government Pleader for respondents present. Rejoinder not submitted. The Bench is also incomplete. To come up for rejoinder and final hearing on 13.03.2017 before D.B at camp court, Abbottabad.

  
Chairman  
Camp Court, A/Abad