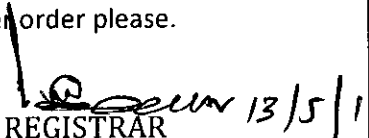

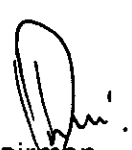



Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 621/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/05/2019	<p>The appeal of Mr. Salim Khan presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 13/5/19</p>
2-	15/05/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14/06/19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	14.06.2019	<p>Nemo for appellant.</p> <p>Issue notice to appellant/counsel for preliminary hearing on 17.07.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	17.07.2019	<p>Counsel for the appellant present.</p> <p>Learned counsel requests for adjournment in order to further prepare the brief. Adjourned to 11.09.2019 before S.B.</p> <p style="text-align: right;">Chairman </p>

11.09.2019

Counsel for the appellant present.

Contends that the appellant was awarded penalty of dismissal from service but with retrospective effect i.e. from the date of absence. The order was passed on 01.07.2016 while the absence of appellant was reckoned from 28.11.2015. In this view of the matter and also the fact that a Larger Bench has been constituted to decide the proposition regarding award of retrospective penalty on 14.11.2019, ~~therefore~~, learned counsel requests for adjourned to a date there-after.

Adjourned to 25.11.2019 before S.B.

Chairman



25.11.2019

Junior to counsel for the appellant present.

Requests for adjournment on account of general strike of the Bar. Adjourned to 22.01.2020 before S.B.

Chairman



22.01.2020

Junior to counsel for the appellant present.

Requests for adjournment due to general strike of the Bar. Adjourned to 20.02.2020 in order to avail the outcome of case(s) pending before the Larger Bench regarding retrospective punishment.

Chairman



Service Appeal No. 621/2019

20.02.2020

Counsel for the appellant present and seeks adjournment. Adjourned to 06.04.2020 in order to avail the outcome of case (s) pending before the Larger Bench regarding retrospective punishment.



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

06.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 30.06.2020 for the same. To come up for the same as before S.B.


Reader

30.06.2020

Learned counsel for the appellant present and seeks adjournment. Adjourned to 22.09.2020 before S.B in order to avail the outcome of cases pending before Larger Bench of this Tribunal, regarding retrospective punishment.



Member (J)

22.09.2020

Counsel for the appellant present.

On the last date of hearing instant matter was adjourned to avail the outcome of cases pending before the Larger Bench and having similar nature. The Larger Bench has not yet concluded the proceedings before it, therefore, instant matter is adjourned to 01.12.2020 before S.B.



Chairman

01.12.2020

Counsel for appellant is present.

Learned counsel requests for adjournment to a date after the decision of proposition regarding retrospective punishment by a Larger Bench of this Tribunal.

Adjourned to 16.02.2021 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

16.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 28.06.2021.

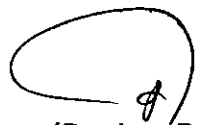

Reader

28.06.2021

Junior to counsel for appellant present.

Former states that some appeals involving punishment with retrospective effect are pending adjudication before Larger Bench of this Tribunal. He, therefore, requests for adjournment of the instant matter to a date after the decision by the Larger Bench.

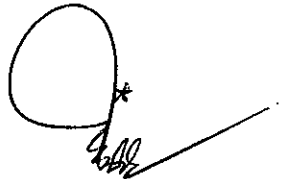
Adjourned to 28.09.2021 for hearing before S.B.


(Rozina Rehman)
Member(J)

28.09.2021

Mr. Said Khan, Advocate junior of counsel for the appellant present.


Junior of learned counsel for the appellant requested for adjournment on the ground that senior learned counsel is busy before the Peshawar High Court, Peshawar in some other cases. Adjourned. To come up for preliminary hearing before the S.B on 22.11.2021.


(MIAN MUHAMMAD)
MEMBER (E)

22.11.2021

Counsel for the appellant present. Preliminary arguments have been heard.

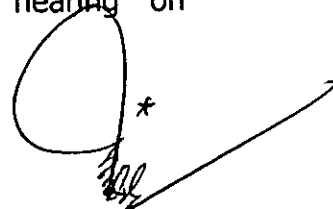
Learned counsel for the appellant contended that the appellant is aggrieved of the impugned order dated 01.07.2016 whereby he was awarded the major penalty of "dismissal from service". The appellant preferred departmental appeal to the appellate authority on 11.04.2019 which was rejected vide order dated 18.04.2019, hence, the instant service appeal filed in the Service Tribunal on 13.05.2019. According to learned counsel for the appellant the impugned order is void ab-initio as no prescribed procedure has been followed to conduct a formal/regular enquiry and the impugned order has been issued with retrospective effect i.e from the date of his absence (28.11.2015) as ex-parte action without meeting the ends of justice. Moreover, as per judgement of Larger Bench in service appeal No. 562/2016 titled Rahim-ud-Din-vs-Inspector General of Police, Khyber Pakhtunkhwa and others, it has been held that in case of void order(s) limitation does not run. On the contrary, the supreme court of Pakistan in CP No. 2478 of 2019 dated 24.12.2020 has held that even a void order needs to be challenged and the period of limitation provided by the law, is to be taken into account. Let pre-admission notice be issued to respondents to submit reply/parawise comments and assist the Tribunal. To come up for preliminary hearing on 28.01.2022 before S.B.


(Mian Muhammad)
Member(E)

28.01.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Zarshad Ali, SI for respondents present.

Written reply not submitted. Representative of the respondents seeks time to submit the same on the next date. Adjourned. To come up for reply/preliminary hearing on 30.03.2022 before S.B.

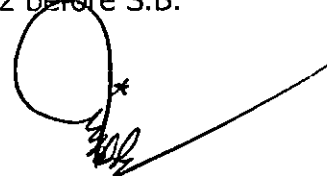


(Mian Muhammad)

30.03.2022

Clerk to counsel for the appellant present. Member(F) Muhammad Ullah Khattak, Addl: AG for respondents present.

Written reply/comments on pre-admission notice not submitted. Notices be issued to the respondents for submission of written reply/comments. Adjourned. To come up for written reply/comments /preliminary hearing on 22.06.2022 before S.B.

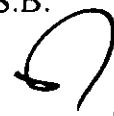


(MIAN MUHAMMAD)
MEMBER(E)

22nd June, 2022

Counsel for the appellant present. Syed Naseer Ud Din Shah, Asst: AG alongwith Mr. Zewar Khan, Inspector for respondents present.

Written reply on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. To come up for preliminary hearing on 11.08.2022 before S.B.



(Kalim Arshad Khan)
Chairman

11.08.2022


Junior to counsel for the appellant present and requested for adjournment on the ground that senior counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 28.09.2022 before S.B.


(Fareeha Paul)
Member (E)

28.09.2022

Mr. Waleed Khan, Junior of learned counsel for the appellant present. Mr. Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Junior to learned counsel for the appellant appeared and ~~re-~~ argued the case on those lines previously reflected in order sheet dated 22.11.2021. Learned Assistant Advocate General assisted the Bench and his views were also in consonance with those of the Bench. Since reply/comments of the respondents on pre-admission notice have been received, the case is therefore to be posted for regular hearing before the D.B on 02.12.2022.


(Mian Muhammad)
Member (E)

2nd Dec. 2022

Mr. Waleed Adnan, Advocate on behalf of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Juma Rehman, Inspector for respondents present.

On 28.09.2022, the learned Member (Executive) fixed this matter for regular hearing but without admitting the appeal to full hearing and make any order to deposit security and process fee, therefore, this matter be placed before learned Member (Executive) in the next week for making appropriate order regarding admission of this appeal to full hearing or otherwise. To come up on 08.12.2022 before the S.B.

(Fareeha Paul)
Member(Executive)


(Kalim Arshad Khan)
Chairman