

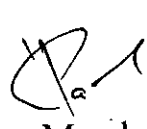



Form- A

FORM OF ORDER SHEET

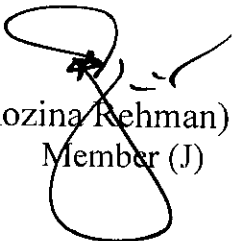
Court of _____

Case No.- 2238/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/12/2019	<p>The appeal of Mr. Muhammad Ismail 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> REGISTRAR 27/12/19</p>
2-	06/02/20	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/02/2020</u></p> <p> CHAIRMAN</p>
	10.02.2020	<p>Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing including hearing on the issue of limitation/maintainability of the present service appeal, on 30.03.2020 before S.B.</p> <p> Member</p>
	30.03.2020	<p>Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 19.06.2020 before S.B.</p> <p> Reader</p>

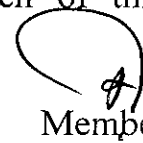
19.06.2020

Counsel for the appellant present. Reportedly on 01.07.2020 other cases involving the proposition regarding retrospective effect of penalty awarded to a civil servant are fixed. Instant matter, therefore, shall also be adjourned to 01.07.2020 before S.B.


(Rozina Rehman)
Member (J)

01.07.2020

Counsel for appellant present and seeks adjournment. Adjourned to 23.09.2020 before S.B in order to avail the outcome of cases pending before the Larger Bench of this Tribunal, regarding retrospective punishment.


Member (J)

23.09.2020

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 03.12.2020 before S.B.


Chairman

03.12.2020 Counsel for the appellant present.

The proposition regarding retrospectivity of penalty has not been decided by the Larger Bench as yet. Instant case is, therefore, adjourned to 18.02.2021 before S.B.


Chairman

18.02.2021 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 30.06.2021.


Reader

30.06.2021 Junior to counsel for appellant present.

He made a request for adjournment as senior counsel is busy before Hon'ble Peshawar High Court, Mingora Bench. In this regard, application was also submitted which is placed on file. Case is adjourned. To come up for preliminary hearing on 28.09.2021 before S.B.


(Rozina Rehman)
Member(J)

28.09.2021

Junior of counsel for the appellant present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned senior counsel is busy before the Peshawar High Court, Peshawar. 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 03.11.2015 whereby he was awarded the major penalty of "termination from service". The appellant preferred departmental appeal to the appellate authority on 25.09.2019 which was not decided within the statutory period, hence, the instant service appeal filed in the Service Tribunal on 27.12.2019. 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 (23.07.2015) 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

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

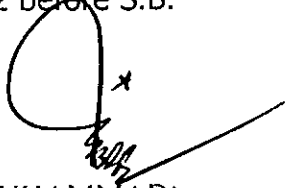
Written reply on pre-admission notice not submitted. Learned AAG seeks time to contact the respondents for submission of written reply. Adjourned. To come up for reply/preliminary hearing on 30.03.2022 before S.B.


(Mian Muhammad)
Member(E)

30.03.2022

Clerk to counsel for the appellant present. Mr. Kabirullah 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.


(MILAN MUHAMMAD)
MEMBER(E)

22nd June, 2022


Counsel for the appellant present. Syed Naseer Ud Din Shah, Asst: AG alongwith Mr. Atta Muhammad, Litigation Officer 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

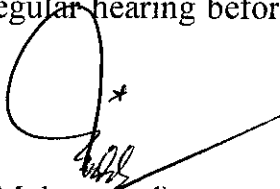
Junior to counsel for the appellant present and requested for adjournment on the ground that senior counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 28.09.2022 before S.B.


(Fareeha Paul)
Member (E)

28.09.2022

Mr. Waleed Khan, Junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, learned Additional Advocate General alongwith Syed Rizwan Shah, Assistant Superintendent Jail for the respondents present.

Learned Additional Advocate General raised preliminary objections on maintainability of the service appeal on the ground that no departmental appeal as allegedly claimed to have been submitted in the department because no Diary number and date has been mentioned and as such the service appeal being time barred is hit by Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. 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. 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 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