

11.03.2021

Appellant present through counsel.

Issue involved in the instant case is pending before Larger Bench and the Larger Bench has not yet concluded the proceedings before it, therefore, instant matter is adjourned to 17 / 06 / 2021 before S.B.



(Rozina Rehman)  
Member (J)

17.06.2021

Junior to counsel for the appellant and states that Senior counsel is not in attendance due to general strike of the bar.

Adjourned to 21.09.2021 for preliminary hearing before S.B.



Chairman

**Sajjad Ali 753/2020**


21.09.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that in the wake of spread of insurgency in Malakand Division/Swat, the appellant could not perform his duty in the prevailing circumstances beyond his control. He was removed from service from the date of his absence i.e 18.09.2009 vide impugned order of respondent No.1 dated 06.04.2010. The impugned order was challenged departmentally on 05.05.2011 and his departmental appeal was dismissed/rejected through impugned appellate order dated 29.07.2011. The appellant, thereafter, filed service appeal in Service Tribunal on 03.01.2020. The issue of limitation was brought to the notice of learned counsel for the appellant and he was rightly expected to justify the question of limitation as the service appeal in hand is badly time barred. In support of his arguments he referred to the reinstatement order of the similarly placed 253 employees dated 30.11.2010, the reinstatement of 12 officials dated 07.02.2012, the reinstatement of individual case of Noor Khan dated 15.03.2017 and reinstatement of Taj Bahadar dated 09.08.2017. All these ex-employees/officials have been reinstatement in service by the respondent(s) themselves. Moreover, this Tribunal judgement dated 02.05.2016 in the Service Appeal of Murad Ali bearing service appeal No. 588/2012 and judgement dated 07.12.2017 in service appeal of Shokat Ali bearing No. 957/2016 whereby service appeals had been allowed and relief granted to them. This Tribunal has recently admitted the service appeal of Farman Ali bearing NO. 1369/2018 in preliminary hearing on 29.06.2021. In addition to the above, 1996 SCMR 1185, 2000 SCMR 75 and 2009 SCMR 01 were placed and relied on in support of arguments with the request that the same benefits may be extended to the appellant being similarly placed and identical case at par with them.

Points raised need consideration. The appeal is provisionally admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 25.01.2022 before the D.B.

Appellant Deposited  
Security & Process Fee  
21/9/2021



(Mian Muhammad)

Member(E)

25.01.2022

Nemo for the appellant. Mr. Noor Zaman Khattak, Addl. District Attorney for respondents present.

Reply/comments on behalf of respondents are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Last opportunity is granted to respondents to furnish reply/comments. To come up for reply/comments before the S.B on 24.03.2022.

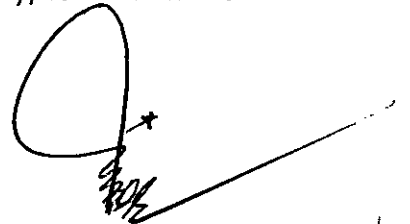


(Atiq-Ur-Rehman Wazir)  
Member (E)

24.03.2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Written reply/comments not submitted. Notices be issued to the respondents for submission of written reply/comments. Adjourned. To come up for written reply/comments on 12.05.2022 before S.B.



(MIAN MUHAMMAD)  
MEMBER(E)

12.05.2022

Counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Arif Salim Stenographer for respondents present.

Reply on behalf of respondents was not submitted. Representative of respondents requested for time to submit reply/comments. Last opportunity granted for submission of comments. If the reply/comments are not submitted, right of respondents for submission of comments shall be deemed as struck off. To come up for reply/comments on 19.07.2022 before S.B.

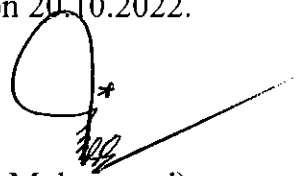


(Rozina Rehman)  
Member (E)

19.07.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

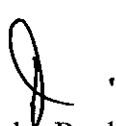
Written reply/comments on behalf of respondents not submitted. On previous date, last opportunity was granted to the respondents for submission reply/comments but even today, they failed to submit their written reply/comments, therefore, the right of submission of reply/comments of the respondents stands struck off. To come up for arguments before the D.B. on 20.10.2022.


  
(Mian Muhammad)  
Member (E)

20<sup>th</sup> Oct, 2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Arguments could not be heard due to paucity of time. To come up for arguments on 30.11.2022 before D.B.

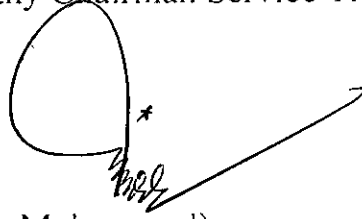
  
(Fareeha Paul)  
Member(Executive)

  
(Kalim Arshad Khan)  
Chairman

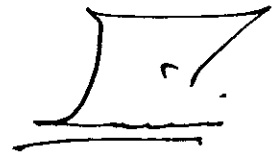
30.11.2022

Learned counsel for the appellant present. Mr. Hikmat Khan, Head Constable alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned Deputy District Attorney stated that arguments in similar nature appeal have been heard by a bench comprising of worthy Chairman and Miss. Fareeha Paul learned Member (Executive) and the appeal was fixed for order, therefore, the appeal in hand may also be fixed before the said bench. The appeal in hand is, therefore, sent to worthy Chairman Service Tribunal for further appropriate order. Learned counsel for the parties shall appear before the worthy Chairman Service Tribunal today at 12:55 P.M.

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a long horizontal stroke extending to the right. There are some smaller scribbles below the main signature.

(Mian Muhammad)  
Member (E)


A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line and a diagonal stroke extending upwards and to the right.

(Salah-Ud-Din)  
Member (J)

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

Learned counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

File received from the learned D.B-II with the observation that the matter was heard by both of us (the undersigned) but vide order sheet dated 31.05.2022 in connected Service Appeal No. 1369/2018 titled "Farman Ali Vs. DPO, Swat and others", the bench sought some clarification which were not made, therefore, let it be fixed before any available D.B. To come up for arguments on 08.12.2022 before the D.B.

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

## FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_

/2020

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge  |
|-------|---------------------------|---|
| 1     | 2                         | 3   |
| 1-    | 31/01/2020                | <p>The appeal of Mr. Sajjad Ali resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;">REGISTRAR 31/1/2020</p>  |
| 2-    | 09.03.2020                | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/03/2020</u></p> <p style="text-align: right;">CHAIRMAN</p> <p>Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up on 22.04.2020 before S.B.</p> <p style="text-align: right;">Member</p> |

22.04.2020

Due to COVID19, the case is adjourned to 23.07.2020 for the same as before.

  
Reader

23.07.2020

Appellant is absent. The legal fraternity is observing strike today therefore, no proceedings could be conducted. The case is adjourned to 06.10.2020. To come up for previous proceedings before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER

06.10.2020

Junior to counsel for the appellant present.

Learned senior counsel for the appellant is not in attendance today due to general strike on the call of Khyber Pakhtunkhwa Bar Council. The matter is adjourned to 09.12.2020 for hearing before S.B.

  
Chairman

09.12.2020

Junior counsel for appellant present.

She made a request for adjournment as senior counsel is not in attendance; granted. To come up for preliminary hearing on 11.03.2021 before S.B.

  
(Rozina Rehman)  
Member (J)