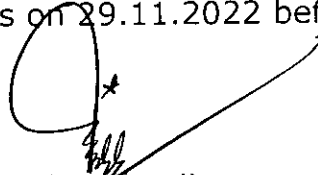


13.09.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is out of station today. Adjourned. To come up for arguments on 29.11.2022 before the D.B.



(Mian Muhammad)
Member (Executive)

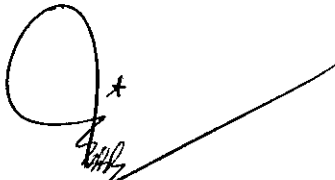


(Salah-Ud-Din)
Member (Judicial)

29.11.2022

Junior of learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 16.12.2022 before D.B.



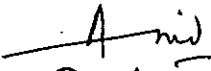
(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

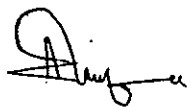
01-12-2021

Due to non-availability of DB, the case is adjourned to 15-03-2022.


Reader

15-3-2022

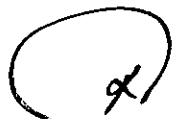
Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 28-6-2022


Reader

28.06.2022

Learned counsel for the appellant present. Mr. Eid Muhammad Assistant alongwith Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Learned counsel for the appellant requested for adjournment in order to prepare the brief of the case. Adjourned. To come up for arguments on 13.09.2022 before the D.B.



(Rozina Rehman)
Member (J)

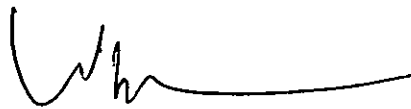


(Salah Ud Din)
Member (J)

02.07.2021

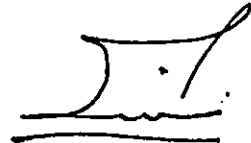
Mr. Nouman, Advocate, for the appellant present. Mr. Eid Muhammad, Senior Clerk alongwith Muhammad Rasheed Khan, Deputy District Attorney present.

Learned counsel for the appellant requested for adjournment on the ground that he has not met preparation for arguments today. Adjourned. To come up for arguments before the D.B on 28.07.2021. Learned counsel for the appellant is directed to provide a second Member copy of the appeal on or before the date fixed.



(ATIQU UR REHMAN WAZIR)

MEMBER (EXECUTIVE)



(SALAH-UD-DIN)

MEMBER (JUDICIAL)

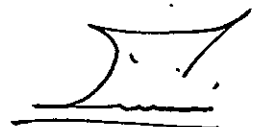
28.07.2021

Clerk of counsel for the appellant present. Mr. Eid Muhammad alongwith Muhammad Rasheed, Deputy District Attorney for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B. on 20.09.2021.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

20.09.2021

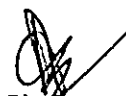
Counsel for appellant present.

Kabir Ullah Khattak learned A.A.G for respondents present.

Request for adjournment was made on behalf of appellant; granted. To come up for arguments on 01.12.2021 before D.B.



(Rozina Rehman)
Member (J)



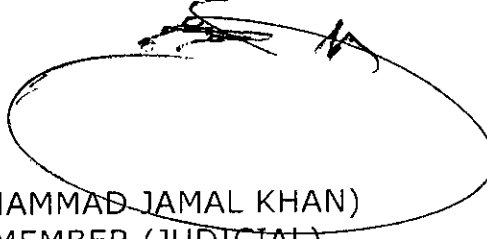
Chairman

19.01.2021

Mr. Muhammad Noman, Advocate, for appellant is present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General and Mr. Eid Muhammad, Senior Clerk, for the respondents are also present.

According to the learned counsel his senior is indisposed of today and requested for adjournment. Request is acceded to, the appeal is adjourned to 05.04.2021 on which date file to come up for arguments before D.B.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

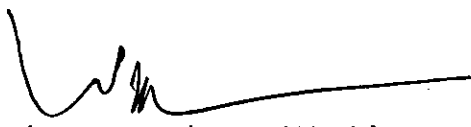

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)


05.04.2021

Junior to counsel for appellant present.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 2/7/2021 before D.B.


(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

18.09.2020

Counsel for appellant present.

Mr. Kabirullah Khattak learned Additional Advocate General alongwith Eid Muhammad Senior Clerk for respondents present.

Former requests for adjournment. Adjourned. Adjourned. To come up for arguments on 11.11.2020 before D.B.


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

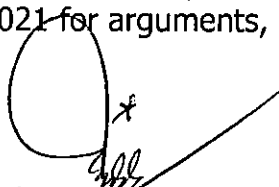

(Rozina Rehman)
Member (J)

11.11.2020

Nemo for appellant.

Kabir Ullah Khattak learned Additional Advocate General alongwith Eid Muhammad ADEO for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 19.01.2021 for arguments, before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

18.02.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak Additional AG alongwith Mr. Eid Muhammad Senior Clerk for the respondent No. 3 present. Representative of the respondents department submitted promotion order dated 26.12.2012 and inquiry report dated 12.01.2017, which is placed on file. Copy of the same is handed over to the learned counsel for the appellant. Learned Additional AG seeks adjournment. Adjourned. To come up for arguments on 07.04.2020 before D.B.


(Hussain Shah)
Member

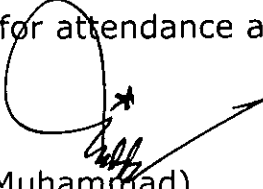

(M. Amin Khan Kundi)
Member

07.04.2020 Due to public holiday on account of COVID-19, the case is adjourned to 11.06.2020 for same as before.


Reader

11.06.2020

None present on behalf of the appellant. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Notices be issued to appellant and her counsel for attendance and arguments for 21.08.2020 before D.B.


(Mian Muhammad)
Member


(M. Amin Khan Kundi)
Member

21.08.2020

Due to summer vacation case to come up for the same on 18.09.2020 before D.B.


Reader

24.10.2019

Junior counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Case to come up for arguments on 03.01.2020 before D.B.



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

03.01.2020

Learned counsel for the appellant present. Mr. Riaz Paindakhel learned Assistant Advocate General alongwith Mr. Eid Muhammad Senior Clerk for the respondents present. Record reveals that the appellant was imposed major penalty of removal from service vide order dated 24.08.2016 on the allegation of absence. The appellant filed departmental appeal which was partially accepted and the removal order was converted into other major penalty of reversion from PSHT BPS-15 to SPST BPS-14 with effect from the date of her promotion but the promotion order of the appellant of SPST BPS-14 to the post of PSHT BPS-15 is not available on record. Therefore the representative of the respondent department is strictly directed to furnish the copy of promotion order of the appellant as well as inquiry report dated 12.01.2017 if any alongwith all the relevant inquiry record. Adjourned. To come up for record and arguments on 18.02.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

26.03.2019

Junior to counsel for the appellant and Mr. Muhammad Jan learned ~~ADDA~~ General alongwith Mr. Eid Muhammad Senior Clerk for the respondents present. Junior to counsel for the appellant request for adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 27.05.2019 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Khan khudi)
Member

27.05.2019

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 30.07.2019 before D.B.


Member


Member

30.07.2019

Hassan Advocate junior to counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Eid Muhammad S.C present. Junior to counsel for the appellant seeks adjournment as senior learned counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 24.10.2019 before D.B.


Member


Member

28.08.2018

Counsel for the appellant and Mr. Kabirullah Khattak AAG alongwith Eid Muhammad Senior Clerk DEO (F) for the respondents. Written reply submitted on behalf of the respondents. To come up for rejoinder and arguments on 29.10.2018 before D.B.


(Muhammad Amin Kundi)
Member

29.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 14.12.2018.


Reader

14.12.2018

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourn. To come up for arguments on 07.02.2019 before D.B.


Member


Member

07.02.2019

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Eid Muhammad, Senior Clerk for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 26.03.2019 for arguments before D.B.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

29.03.2018

Clerk of the counsel and Mr. Kabir Ullah Khattak, Additional AG alongwith Mr. Hameed-ur-Rahman, AD (Lit) for the respondent present. Written reply not submitted. Requested for adjournment. Adjourned. Last opportunity is granted. To come up for written reply/comments on 03.05.2018 before S.B.


Chairman

03.05.2018

The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on **28.06.2018** before S.B.



Reader

28.06.2018

Counsel ~~for~~ the appellant present. Mr. Muhammad Jan, DDA for the respondents presents. None present on behalf of respondents. Therefore, fresh notices be issued to the respondents department to attend the court positively. Written reply not submitted on behalf of respondents despite last opportunity. Requested for further adjournment. Another last opportunity is extended. *To come up for reply/comments on 28-08-2018 before S.B.*


Member


29.01.2018

Counsel for the appellant and Asst: AG alongwith Mr. Zakiullah, Senior Auditor for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply on 12.02.2018 before S.B.


(Ahmad Hassan)
Member(E)


12.02.2018

Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Written reply not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for written reply/comments on 27.02.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member (J)

27.02.2018

Counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Notices be also issued to the respondents. To come up for written reply/comments on 29.03.2018 before S.B.


(Ahmad Hassan)
Member (E)

5.12.2017

Learned counsel for the appellant present.
Preliminary arguments heard and case file perused.

Learned counsel for the appellant argued that the appellant is was serving as PST Teacher in GGPS Baharabad, Chitral. That the ^{said} posts was upgraded vide notification dated 26.12.2012 and the appellant was promoted as PST Head Teacher (BPS-15). Further argued the posts of PST Teachers were required to be rationalized and upgraded and before making promotions in accordance with the formula and guidelines laid down in the policy dated 18.01.2013. That respondent No. 3 was required to adopt and follow the proper rationalization Policy before making any transfer or adjustment orders. That since the promotion/adjustment order was not received well in time, therefore appellant could not report arrival at GGPS Asper Domel within the stipulated period of 14 days and that, on this account an enquiry was ordered, which culminated in removal from service of the appellant vide order dated 24.08.2016. That on a departmental appeal dated 18/11/16 this punishment has been converted vide order dated 06.03.2017 into minor penalty of reversion from PSHT (BPS-15) to SPST as well as recovery of the benefit of promotion. Further argued that the appellant never remained absent from her original station of duty as she was actually and physically performing her duty in the school ^{of} her respective Union Council which is duly confirmed by the Independent Monitoring Unit. That the impugned order is illegal order based on malafide and personal grudges due to the fact that respondents are annoyed from appellant's previous Writ Petition in Peshawar High Court and a service appeal lying pending in the Khyber Pakhtunkhwa Service Tribunal. That the delay in submission of the appeal is due to the fact that the appellant belongs to a far flung /remote area of District Chitral and could not make preparation in time.

Points raised need consideration. Admitted for regular hearing subject to all legal objections ^{including limitation. Appellant is} and process fee within (10) days, whereafter notice be issued to the respondents department for written reply/comments on 29.01.2018 before S.B.

(Gul Zeb Khan)
Member

Appellate Deposited
Security Deposit
Process Fee

also directed to deposit security


18/8/2017

Counsel for the appellant present and seeks adjournment. Adjourned. To come up ^{for} arguments according to order sheet dated 31/7/2017 on 26/9/2017.


(GUL ZEB KHAN)
MEMBER

26.09.2017

Counsel for the appellant present and requested for adjournment. Adjourned. To come up for arguments according to order sheet dated 31.07.2017 on 18.10.2017 before S.B.


(Muhammad Amin Khan Kundi)
Member

18/10/2017

Clerk of counsel for the appellant present and seeks adjournment. To come up for arguments according to order sheet dated 31/7/2017 on 9/11/2017 before SB.


(GUL ZEB KHAN)
MEMBER

09.11.2017

Junior to counsel for the appellant present and seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for preliminary hearing on 06.12.2017 before S.B.


(AHMAD HASSAN)
MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 743/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	14/07/2017	<p>The appeal of Mrs Bibi Shahnaz resubmitted today by Mr. Hamza Amir Gulab 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;"><i>[Signature]</i> REGISTRAR</p>
2-	24-7-2017	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>31-7-2017</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
31.07.2017		<p>Counsel for the appellant present. He argues that the impugned order of removal from service of the appellant was passed on 24.08.2016 against which departmental appeal was filed on 10.09.2016 which was decided on 06.03.2017 and the present appeal has been filed on 23.06.2017 after 73 days.</p> <p>The learned counsel for the appellant is of the view that this appeal is time barred by 43 days as this appeal should have been filed after 30 days of the decision of the departmental appellate authority under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. The learned counsel for the appellant therefore presses his application for condonation of delay that the delay of 43 days should be condoned on the ground mentioned in the application. But when this court put the question to the learned counsel for the appellant that under which rules the impugned order has been passed, the learned counsel for the appellant read out the impugned order wherein the authority had passed the order</p>

under Section 3 of the Khyber Pakhtunkhwa Civil Servants Removal from Service (Special Powers) Ordinance, 2011. But there is no such law under the name of Khyber Pakhtunkhwa Removal Service (Special Powers) Ordinance, 2011 because this law was of 2003 which was repealed in 2011. It appears that the authority passing the order had added the words "amended in 2011" which gives the impression that in fact in the year, 2011 the Government Servants (E&D) Rules, 2011 were promulgated which had repealed the E&D Rules, 1973. The Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2003 was also repealed as stated above in 2011, however, the saving clause of the repealing law have saved all those proceedings which were initiated under the repealed law. But the learned counsel for the appellant submitting that the proceedings started in 2014 and not prior to 2011 which means that the present proceedings were initiated and culminated into penalty under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. In these rules as amended on 18.07.2012 period of limitation for departmental appeal and appeal before this Tribunal has been provided by its Rule 19. This rule 19 has given overriding effect by insertion that any aggrieved Government servant may file an appeal within 30 days to the departmental appellate authority and if the same is not communicated within a period of 60 days on filing of departmental appeal the affected Government Servant may file an appeal before this Tribunal within further 90 days after expiry of the afore-stated period which means that 60 days + 90 days = 150 days has been provided by sub rule-2 of Rule 19. But in the present case the departmental appeal has not been decided within 60 days rather it has been decided on 6th of March, 2017. Now the question would be that whether the period of limitation should be reckoned as 30 days or 90 days after 06.03.2017. In the latter case it would be within time and in the former it would be time barred. The learned counsel seeks time for arguing this point. To come up for arguments on this point on 18.08.2017.


Chairman