




Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1175 /2020

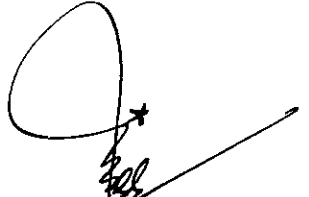
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/02/2020	<p>The appeal of Mr. Adnan Khan resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p> REGISTRAR 25/2/2020</p>
2-	02/03/2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/04/2020</u></p> <p> MEMBER</p>
	02.04.2020	<p>Due to public holiday on account of COVID-19, the case is adjourned for the same on 26.06.2020 before S.B.</p> <p> Reader</p>

26.06.2020

None for the appellant present.

On the last date of hearing the case was adjourned through Reader note. The office shall, therefore, issue notices to the appellant and his counsel for next date of hearing.

Adjourned to 02.09.2020 before S.B.


MEMBER

02.09.2020

Mr. Mir Zaman Safi, Advocate for appellant present.

States that in the instant case the issue regarding retrospective operation of impugned penalty is also involved. He, therefore, requests for adjournment of the matter to a date after the hearing of similar issue by a Larger Bench.

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

Appellant present through counsel.

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.

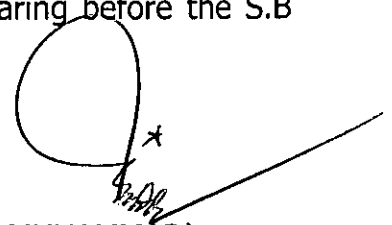
Adjourned to 28.09.2021 for hearing before S.B.


(Rozina Rehman)
Member(J)

28.09.2021

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

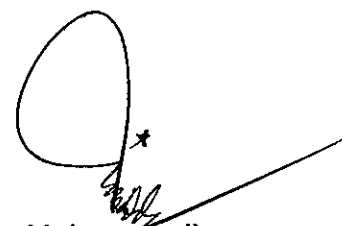
Junior of learned counsel for the appellant requested for adjournment on the ground that senior learned counsel is busy before the Peshawar High Court, Peshawar in some other cases. Adjourned. To come up for preliminary hearing before the S.B on 22.11.2021.


(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 25.02.2016 whereby he was awarded the major penalty of "removal from service". The appellant preferred departmental appeal to the appellate authority on 22.10.2019 which was not decided within the statutory period, hence, the instant service appeal filed in the Service Tribunal on 10.02.2020. 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 (02.12.2015) 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.

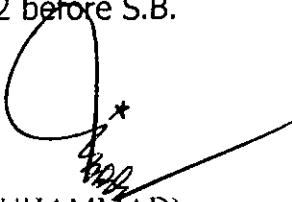
Written reply on pre-admission notice not submitted. Learned AAG seeks time to contact the respondents for submission of written reply. Adjourned. To come up for reply/preliminary hearing on 30.03.2022 before S.B.


(Mian Muhammad)
Member(E)

30.03.2022

Clerk of learned 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.


(MIAN 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

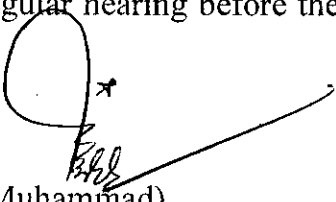
Junior to counsel for the appellant present and requested for adjournment on the ground that senior counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 28.09.2022 before S.B.


(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)

02.12.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not feeling well today. Adjourned. To come up for arguments on 30.01.2023 before the D.B.



(Rozina Rehman)
Member (J)



(Salah-Ud-Din)
Member (J)