

04.08.2020

Counsel for the appellant Mr. Noor Muhammad Khattak, Advocate is present. Preliminary arguments heard. Learned counsel for the appellant argued that the appellant was serving as Junior Clerk in Education Department and during his service he was charged in two cases, FIR No. 1 dated 25.09.2012 under sections 409/419/420/468/471/472 PPC read with section 5(2) PC Act of P.S. ACE, Malakand and case FIR No. 1 dated 25.03.2013 under section 409/419/420/468/471/PPC read with section 5(2) PC Act of P.S. ACE, Buner and the appellant was sent behind the bar. It was argued that the respondent-department without waiting the final decision of the aforesaid FIRs, passed the impugned order dated 03.06.2013 whereby major penalty of removal from service upon the appellant was imposed. It was further contended that the appellant was acquitted by the learned Special Judge Anti Corruption vide judgment dated 26.02.2019 and after acquittal the appellant filed departmental appeal on 04.03.2019 which was not responded within the stipulated statutory period hence, the present service appeal on 02.07.2019. It was vehemently argued by learned counsel for the appellant that requirements under Rule-8 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 have not been met. Moreso, neither charge sheet/statement of allegations was served upon the appellant nor regular inquiry was conducted. The appellant was not provided opportunity of personal hearing and defence and without waiting the outcome and conclusion of the aforesaid FIRs, the appellant was imposed major penalty of removal from service, therefore, the impugned order issued in violation of Article 10 of the Constitution is illegal and liable to be set-aside.

The contentions raised by learned counsel for the appellant need consideration. The instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 05.10.2020.

  
(MIAN MUHAMMAD)  
MEMBER(E)

Appellant Deposited  
Security & Process Fee

  
4/8/20

05.10.2020

Appellant with counsel and Addl. AG alongwith Abdul Waheed, Litigation Officer for the respondents present.

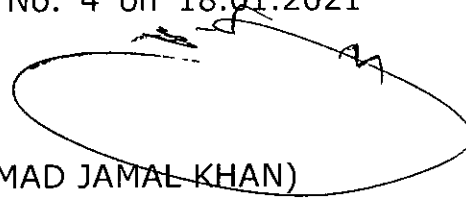
Representative of respondents <sup>seeks</sup> ~~seek~~ time to furnish reply/comments. Adjourned to 26.11.2020 on which date the requisite reply/comments shall positively be furnished.

  
Chairman

26.11.2020

Junior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Abdul Waheed, Litigation Officer, on behalf of respondents No. 1 to 3, are also present.

Representative of respondents No. 1 to 3 submitted written reply on behalf of the said respondents which is placed on file. Neither written reply on behalf of respondent No. 4 is submitted nor any representative on his behalf is present, therefore, learned Additional Advocate General is directed to ensure presence of representative of the said respondent and submit reply on the next date positively. File to come up for written reply/comments on behalf of respondent No. 4 on 18.01.2021 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

18.01.2021 Appellant present through counsel.

Noor Zaman Khattak learned District Attorney alongwith Waheed Gul ADEO for respondents present.

Written reply of respondents No.1 to 3 already submitted. Learned District Attorney stated that the respondent No.4 relies on the reply of respondents No.1 to 3. To come up for rejoinder, if any, and arguments on 22.04.2021 before D.B.

  
(Rozina Rehman)  
Member (J)

22.04.2021 Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 16.08.2021 for the same as before.

  
Reader

16.08.2021 Since 16.08.2021 has been declared as Public holiday on account of Moharram, therefore, case is adjourned to 25.10.2021 for the same as before.

  
Reader

25.10.2021

Appellant in person present. Mr. Kabirullah Khattak,  
Additional Advocate General for respondents present.

Arguments could not be heard due to learned judicial member  
(Salah-ud-Din) is on leave. Adjourned. To come up for arguments  
before the D.B on 24.02.2022.

  
(MIAN MUHAMMAD)  
MEMBER (E)

24-2-22

*Due to retention of meeting chairperson,  
therefore the case is adjourned to 31-5-22 for  
the same.*


  
Reader

31.05.2022

Junior to counsel for appellant present.

Naseer Ud Din Shah learned Assistant Advocate  
General for respondents present.

Former made a request for adjournment as senior  
counsel for appellant is busy in august Supreme Court of  
Pakistan. Adjourned. To come up for arguments on  
10/08/2022 before D.B.

  
(Fareeha Paul)  
Member(E)

  
(Rozina Rehman)  
Member (J)

10-8-2022

*Proper D.B. note available the  
case is adjourned to 2-11-2022*

  
Reader

2nd Nov., 2022

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


Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Last opportunity is granted. To come up for arguments on 15.12.2022 before the D.B.

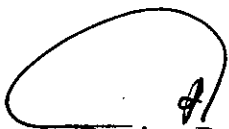
  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

15.12.2022

Due to general strike of the Bar, case is adjourned to 07.03.2023 before D.B. Office is directed to notify the next date on notice board as well as the website of the Tribunal.

  
(Fareeha Paul)  
Member (E)

  
(Rozina Rehman)  
Member (J)

26.09.2019

Counsel for the appellant present.

Issue pre-admission notice to respondents for production of complete record of departmental proceedings undertaken against the appellant.

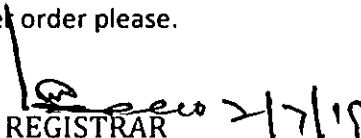



Adjourned to 14.11.2019 before S.B.

Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No.- 871/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/07/2019	<p>The appeal of Mr. Altaf Abdul Nasir 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</p>
2-	09.08.2019	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/08/19,</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	26.09.2019	<p>Counsel for the appellant present.</p> <p>Learned counsel for the appellant requests for time to further prepare the brief. Adjourned to 26.09.2019 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>
		<p>Counsel for the appellant present.</p> <p>Issue pre-admission notice to respondents for production of complete record of departmental proceedings undertaken against the appellant.</p> <p>Adjourned to 14.11.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>

*Q-12/2019  
today*


871/2019

14.11.2019

Counsel for the appellant and Addl. AG alongwith Syed Shah Said Superintendent for the respondents present.

Representative of respondents appearing on pre-admission notice requests for time to produce the record of departmental proceedings against the appellant. The requisite record shall positively be produced on next date of hearing. Else, the matter would be proceeded with on the basis of available record.

Adjourned to 18.12.2019 before S.B.

  
Chairman

17.12.2019

Appellant in person and Addl. AG alongwith Muhammad Naveed, Assistant for the respondents present.

Representative of respondent No. 4 has produced record pertaining to departmental proceedings against the appellant. The same are placed on file. The appellant, on the other hand, requests for adjournment due to non-availability of his learned counsel owing to general strike of the Bar.

Adjourned to 28.01.2020 before S.B.

  
Chairman



28.01.2020 Clerk to counsel for the appellant present and seeks adjournment as learned counsel for the appellant is not in attendance. Adjourn. To come up for preliminary hearing on 16.03.2020 before S.B.



Member

16.03.2020 Nemo for the appellant. Naseem Ul Haq Superintendent representative of respondents present. Lawyers community is on strike on the call of Peshawar Bar Association. Adjourn. To come up for preliminary hearing on 29.04.2020 before S.B. Attendance of representative of the respondent department is dispensed with till further orders.



Member

29.04.2020 Due to COVID-19, the case is adjourned to 04.08.2020 for the same, before S.B.



Reader