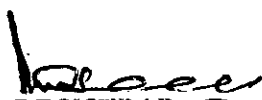




FORM OF ORDER SHEET

Court of _____
 Restoration Application No. 59/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08/04/2016	<p style="text-align: center;">The application for restoration of appeal no. 63/2016 submitted by Mr. Rasheed Ahmad through Rasheed Ahmad Mohmand Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <div style="text-align: right;">  REGISTRAR </div>
2	12-04-2016	<p style="text-align: center;">This restoration application be put up before S. Bench on <u>25-04-2016</u>.</p> <div style="text-align: right;">  CHAIRMAN </div>
25.4.2016		<p style="text-align: center;">Counsel for the petitioner present. Notices be issued to the respondents. Original record of appeal may also be requisitioned. To come up for reply and arguments on 21.07.2016 before S.B.</p> <div style="text-align: right;">  Chairman </div>

21.07.2016

Counsel for the petitioner and Additional AG for the respondents present. Reply not submitted. Requested for further time. To come up for reply and arguments on 29.08.2016 before S.B.



MEMBER

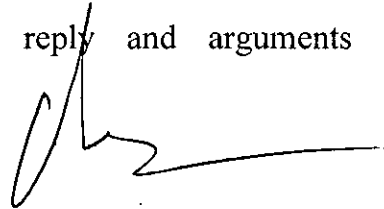
29.08.2016

None for the petitioner and Mr. Daud Jan, Supdt. Alongwith Addl. AG for respondents present. Addl. AG requested for adjournment. To come up for reply and arguments application on 31.10.2016 before S.B.


Chairman

31.10.2016

Counsel for the petitioner and Addl. AG for respondents present. None present on behalf of respondent-department. Notice be issued to them. To come up for written reply and arguments on 28.12.2016 before S.B.




Member

28.12.2016

Son of appellant and Assistant A.G present. Record perused according to which the office of Registrar has directed the appellant to submit one more copy of appeal alongwith annexes vide order dated 28.07.2015 which directions of the office of the Registrar of this Tribunal were questioned by the learned counsel for the appellant and, finally, the appeal was fixed before this Tribunal for hearing on office objection while appeal was however dismissed in default vide order dated 03.03.2016.

Perusal of the record, order of the Registrar would suggest that the directions contained therein are essential requirement and as such the appellant is obliged to comply with the same. Office objection therefore sustained. The appellant shall comply with the directions of the Registrar within 10 days where-after office shall fix the appeal before this Tribunal in the prescribed manners for further proceedings on 24.1.2017.


Chairman
28.12.2016

24.01.2017

Counsel for the appellant and Asstt. Advocate General for the respondents present. The appeal was dismissed in default on 03.03.2016 which was fixed for hearing on office objection.

In view of the above stated position the application is accepted as it will be appropriate to proceed with the matter on merits. Orders accordingly. Office shall fix the appeal for hearing after clarifying the office objection, for preliminary hearing on 06.02.2017 before S.B.


Chairman

06.02.2017

Counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 20.02.2017 before S.B.

(MUHAMMAD AAMIR NAZIR)
MEMBER

20.02.2017

Appellant in person present. Appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 01.03.2017 before S.B.

(AHMAD HASSAN)
MEMBER

01.03.2017

Counsel for the appellant present. Through instant appeal appellant has impugned order dated 23.01.2013 vide which the appellant removed from service. Against the impugned order appellant filed departmental appeal after one year on 21.01.2014 and subsequently filed this appeal on 27.07.2015 which is on the face of barred by time, however, learned counsel for the appellant requested ~~to~~ ^{to} adjournment to assist the Tribunal on the point of limitation. Adjournment granted, in the meanwhile notice be issued to the AAG for assistance. To come up preliminary arguments on 30.03.2017

(MUHAMMAD AAMIR NAZIR)
MEMBER

30.3.2017

Learned counsel for the appellant and Asstt. AG for the respondents present. Learned counsel for the appellant argued that the appellant was serving as Theology Teacher at GPS Malak Taj Korooni Haleemzai, Mohmand Agency when he was removed from service vide impugned order dated 23.11.2013 and where-against his departmental appeal on 3.3.2015 which was not responded and hence the instant service appeal on 27.7.2015.

That the impugned order is void ab-initio as neither the enquiry proceedings were ever conducted nor any other provisions of law was adhered to. That similarly placed employees were granted relief through administrative powers entitling the appellant to alike treatment. That the appellant has put in 23 years pensionable service and as such the impugned order was disproportionate to the attending circumstances of the case and as such the same is liable to be set aside.


Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 24.4.2017 before S.B.

Appellant Deposited
Security Process Fee


Chairman

24.04.2017

Counsel for the appellant and Mr. Adeel Butt, Additional: AG for the respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comment on 25.05.2017 before S.B.


(Ahmad Hassan)

Member

25.05.2017

Junior to counsel for the appellant and Addl. AG for the respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for reply/comments on 12.07.2017 before S.B.


(AHMAD HASSAN)
MEMBER

12.07.2017

None present on behalf of the appellant. Mr. Hameed-ur-Rehman, AD (litigation) alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Written reply by respondents not submitted. Learned Assistant AG requested for adjournment. Adjourned. To come up for written reply/comments on 10.08.2017 before S.B.


(Muhammad Amin Khan Kundi)
Member

10.08.2017

Counsel for the petitioner and Asst: AG for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply on 18.09.2017 before S.B.


(Ahmad Hassan)
Member

18.09.2017

None for the appellant present. Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 17.10.2017 before S.B.


(Ahmad Hassan)
Member

17/10/2017

Clerk of counsel for appellant and Mr. Kabirullah Khattak, AAG for the respondents present. Written reply not submitted and AAG requested for further time. To come up for written reply/comments 13/11/2017 before SB.


(GUL ZEB KHAN)
MEMBER

13.11.2017

Clerk of counsel for appellant present. Mr. Kabir Ullah Khattak, Addl: Advocate General for the respondents present. Written reply not submitted despite in last opportunities. Last opportunity further extended subject to payment of cost of Rs. 1000/- which shall be borne by respondents from their own pockets. To come up for written reply/comments and costs of Rs. 1000 on 14.12.2017 before S.B.


(Gul Zeb Khan)
Member

14.12.2017

None for the appellant present. Asst: AG alongwith Mr. Daud Jan, Supdt for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity further extended subject to payment of cost of Rs. 1500/- which shall be borne by respondents from their own pockets. Notices be also issued to the appellant and his counsel. To come up for written reply/comments and cost of Rs. 1500/- on 10.01.2018 before S.B.


(AHMAD HASSAN)
MEMBER

10.01.2018

Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Daud Jan, Superintendent for the respondents also present. Representative of respondents No. 2 & 3 submitted written reply alongwith cost of Rs. 1500/-. He also stated that respondents No. 1 & 5 also rely on the same. Cost of Rs. 1500/- paid to the learned counsel for appellant and receipt of the same also obtained from the learned counsel for appellant. None present on behalf of respondent No. 4 therefore, he placed ex-parte. To come up for rejoinder and arguments on 13.03.2018 before D.B.



(Muhammad Amin Khan Kundi)
Member

13.03.2018

Junior to counsel for appellant and Mr. Muhammad Jan, learned DDA for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not available. Adjourn. To come up for arguments on 04.05.2018 before D.B



(M.Amin Khan Kundi)
Member



(Muhammad Hamid Mughal)
Member

04.05.2018

Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on 18.07.2018 before D.B




Chairman

18.07.2018

Son of the appellant on behalf of the appellant present. Mr. Sardar Shoukat Hayat, Addl: AG for respondents present. Son of the appellant seeks adjournment. Adjourned. To come up for arguments on 11.09.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

11.09.2018

Mr. Rasheed Ahmad Advocate on behalf of legal heirs of the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present. Adjournment requested. To come up for arguments on 10.10.2018 before D.B.



(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

10.10.2018

Appellant in person and Mr. Kabirullah Khattak, Additional AG for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 22.11.2018 before D.B.

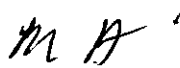

(Ahmad Hassan)
Member


(Muhammad Amin Kundi)
Member

22.11.2018

Mr. Rashid Ahmad, Advocate on behalf of legal heirs of the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant submitted application for impleadment of legal heirs as necessary party due to death of the appellant. Application is placed on record. To come up for reply and arguments on the said application on 23.01.2019 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

23.01.2019

Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Daud Jan, Superintendent for the respondents present. On the previous date learned counsel for the appellant submitted application for impleadment of legal heirs as necessary party due to death of the appellant and the appeal was fixed for reply and arguments for today on the said application. However, representative of the respondent-department stated at the bar that reply has not ^{been} prepared so far. Leaned District Attorney for the respondents also informed the Tribunal that similar nature cases are fixed before Larger Bench on 29.01.2019 and requested that the present case may also be fixed with the said cases on the same date. Request is accepted. Case to come up for reply and argument on 29.01.2019 before Larger Bench.


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

29.11.2019

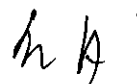
Nemo for appellant. Mr. Usman Ghani, District Attorney for the respondents. Notice be repeated to Mr. Rasheed Ahmad Mohmand Advocate Peshawar for 11.04.2019 before the Larger Bench.



(M. Hamid Mughal)
Member



Chairman



(M. Amin Khan Kundi)
Member



(Ahmad Hassan)
Member



(Hussain Shah)
Member

11.04.2019

Junior to counsel for the appellant and Addl. AG for the respondents present.

Due to general strike on the call of Bar Association instant matter is adjourned to 25.06.2019 before the Larger Bench.



(M. Hamid Mughal)
Member



Chairman



(M. Amin Khan Kundi)
Member




(Ahmad Hassan)
Member



(Hussain Shah)
Member

25.06.2019

Learned Chairman is in dispose while learned member Mr Mohammad Amin Kundi and Mr. Hussain Shah is on tour to camp court D.I.Khan. To come up on 05/07/2019.



Reader

05/07/2019

Due to incomplete bench, the case is adjourned. To come up on 29/08/2019.



Reader

29.08.2019

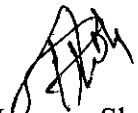
Junior to counsel for the appellant and Mr. Riaz Khan Paindakhel learned Assistant Advocate General for the respondents present. Mr. Muhammad Amin Khan Kundi Member of this Tribunal is on tour to Camp Court D.I Khan, therefore, the instant matter is adjourned to 14.11.2019 for arguments before Larger Bench.



(Muhammad Hamid Mughal)
Member



Chairman



(Hussain Shah)
Member



(Ahmed Hassan)
Member

14.11.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present.

Learned District Attorney at the outset pointed out that although instant appeal has been fixed for hearing before the Larger/Full Bench but there is no formulation of legal/factual proposition to be considered by the Bench.

During the discussion it revealed that this Tribunal has already handed down atleast two judgments regarding the abatement of appeal of a civil servant upon his demise. Apart from that some judgments by the August Supreme Court as well as learned Federal Service Tribunal have also been referred to which essentially touch the proposition.

We, therefore, consider it appropriate to remove instant appeal from the list of Larger/Full Bench and assign it to a Division Bench for decision in accordance with law after hearing learned counsel for the parties.


Adjourned to 15.01.2020 before a Division Bench.



(M. Hamid Mughal)
Member



Chairman



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member



(Hussain Shah)
Member

15.01.2020

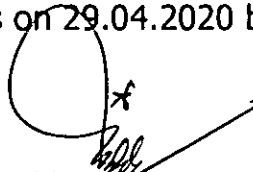
Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant appeal is adjourned to 02.03.2020 for further proceedings/arguments before D.B.


Member


Member

02.03.2020

Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 29.04.2020 before D.B.


Member


Member

29-4.2020

Due to COVID19, the case is adjourned to

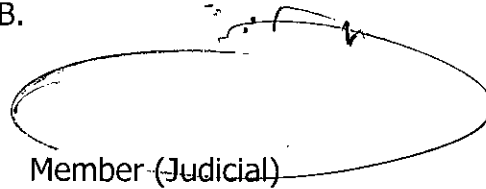
13/7/2020 for the same as before.


Reader

13.07.2020

Syed Numan Ali Bukhari Advocate on behalf of counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

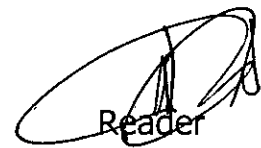
Former requests for adjournment as learned senior counsel for the appellant has gone to attend cases before the courts in Mohmand District. Adjourned to 25.08.2020 before the D.B.


Member-(Judicial)


Chairman

25.08.2020

Due to summer vacation case to come up for the same on 09.10.2020 before D.B.


Reader

09.10.2020

Junior counsel for appellant present.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Former requests for adjournment, as senior counsel is busy before Hon'ble High Court. Adjourned. To come up for arguments on 03.12.2020 before D.B.



(Atiq ur Rehman Wazir)



(Rozina Rehman)

03.12.2020

Member (E) Member (J)
Due to COVID-19, the case is adjourned to 04.03.2021 for the same as before.




Reader

04.03.2021

Junior to counsel for the appellant and Addl. AG for the respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, the matter is adjourned to 09.06.2021 for hearing before the D.B.



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



Chairman

09.06.2021

Junior to counsel for appellant present.

Javid Ullah learned Assistant Advocate General for respondents present.

Former requested for adjournment as senior counsel is busy before District Courts Mohmand; adjourned. To come up for arguments on 12.10.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

12.10.2021

Counsel for the appellant present.

Mr. Javed Ullah, learned Assistant Advocate General for respondents present.

Reportedly, appellant is ~~de~~ but list of his legal heirs has not been brought on record, therefore, a request was made for adjournment by the learned counsel for appellant in order to submit list of legal heirs of the appellant. Adjourned. To come up for further proceedings/arguments on 18.10.2021 before D.B.



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



(Rozina Rehman)
Member (J)

18.10.2021

Nemo for parties.

Javid Ullah, learned Assistant Advocate General present.

On the preceding date, learned counsel for appellant had made a request for adjournment in order to submit list of legal heirs of the appellant which was accordingly submitted on 13.10.2021 and is placed on file. Today, lawyers are on general strike, therefore, case is adjourned to 11/11/2021 for arguments and order before D.B.



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

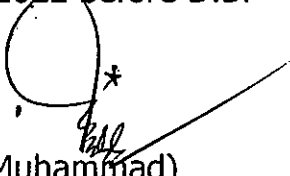


(Rozina Rehman)
Member (J)

11.11.2021 Nemo for parties.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General present.

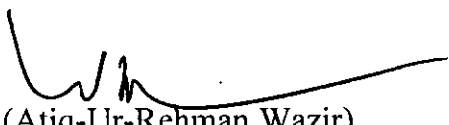
List of legal heirs of deceased appellant has already been submitted and is placed on file. Notice be issued to all the legal heirs of the appellant. Respondents also be put on notice for the next date and file to come up for arguments on 26.01.2022 before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

26.01.2022 Junior to counsel for the deceased appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Junior to counsel for the deceased appellant requested for adjournment as senior counsel is not available today due to some domestic engagement. Adjourned. To come up for arguments before the D.B on 13.05.2022.


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



Chairman


13.05.2022

Nemo for parties.

Muhammad Rasheed, learned Deputy District Attorney for respondents present.

Perusal of record would reveal that appellant is dead. His list of legal heirs is placed on file but today neither his legal heirs nor counsel is available, therefore, notice be issued to all the legal heirs of the appellant and his counsel for 27.07.2022 for arguments before D.B.


(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member (J)


27th July 2022

Nobody present on behalf of the appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

All the legal heirs are out of district so due to non-availability of legal heirs notice should be issued to you

On 22.11.2018 an application was submitted by learned counsel for the appellant informing the Tribunal about death of the appellant and impleadment of legal heirs of the appellant as necessary party. But despite that legal heirs of the deceased appellant had not been made party even then notices were being issued to them. Therefore, let legal heirs of the deceased appellant be made party in this appeal with the direction to the office to make entry in the memo of appeal as well as in the relevant register accordingly. Thereafter, notices be issued to them through learned Senior Civil Judge Mohmand for 12.10.2022 for arguments before the D.B.



(Salah-Ud-Din)
Member (J)



(Kalim Arshad Khan)
Chairman

12th Oct, 2022

None for the appellant present . Syed Nascir Ud Din Shah, Asst: AG for respondents present.

Notices has directed on previous order sheet dated 27.07.2022 be repeated to the legal heirs of the deceased appellant on the state expenses. To come up on 22.11.2022 before D.B.


(Fareeha Paul)
Member(Executive)


(Kalim Arshad Khan)
Chairman

*Deleted from the list to
come up for the same on 20-1-2023*


ma


20.01.2023

Nemo for appellant.

Muhammad Adeel Butt learned Additional Advocate
General for respondents present.

Preceding date was adjourned on Reader's note,
therefore, notice be issued to appellant as well as his
counsel for the date fixed. To come up for arguments on
13.03.2023 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)