


# FORM OF ORDER SHEET

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

**12(2) CPC Petition No. 438 /2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03/06/2024	<p>The Petition U/S 12(2) CPC in Service Appeal no. 5735/2021 submitted by Mst Sana Bibi through Muhammad Adeel Butt Advocate. It is fixed for hearing before Single Bench at Peshawar on 05.06.2024. Original file be requisitioned. Parcha peshi given to counsel for the petitioner.</p> <p>By the order of Chairman  <b>REGISTRAR</b></p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

12(2) CPC in reference to S.A No.5735/2021

12(2) CPC Petition no 438/2021

**Mst. Sana Bibi, Ex-TT GGPS, Said Rahman Kally, Bara District Khyber.**

**Applicant/Appellant**

**VERSUS**

**The Secretary, Elementary & Secondary Education, Khyber**

**Pakhtunkhwa Peshawar and others**

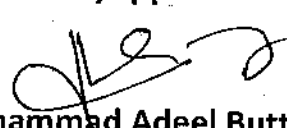
**Respondents**

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Through

  
**Petitioner /appellant**

  
**Muhammad Adeel Butt,  
Advocate High Court,  
Peshawar  
Cell No.0334-9166514**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

12(2) CPC in reference to S.A No.5735/2021

Mst. Sana Bibi, Ex-TT GGPS, Said Rahman Kally, Bara District Khyber.

**Applicant/Appellant**

**VERSUS**

- 1. The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
- 2. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3. The District Education Officer, (Female), District Khyber.

**Respondents**

**PETITION UNDER SECTION 12 (2) CPC FOR SETTING ASIDE THE ORDER/ JUDGMENT / DECREE DATED 30 /11/2022 IN SERVICE APPEAL NO. 5735 /21 OF CASE TITLED "SANA BIBI ULLAH VS EDUCATION DEPARTMENT " WHICH WAS BASED ON FRAUD, MIS-REPRESENTATION AND WANT OF JURISDICTION.**

**PRAYER:**

**ON ACCEPTANCE OF INSTANT PETITION, THIS HONORABLE TRIBUNAL MAY KINDLY SET ASIDE THE ORDER/ JUDGMENT / DECREE 30/11/, PASSED IN SERVICE APPEAL NO.5735/21 CASE TITLED "SANA BIBI VERSUS EDUCATION DEPARTMENT " AND MAY KINDLY BE ALLOWED THE PETITIONER TO CONTEST HER SERVICE APPEAL BEARING NO 5735/21 ON MERITS BY RESTORING THE SERVICE APPEAL OF THE PETITIONER AS PRAYED FOR, KEEPING IN VIEW THE INTEREST OF JUSTICE AND ON HUMANITARIAN GROUNDS.**

Respectfully Sheweth:

The Petitioner/Appellant submits as under:-

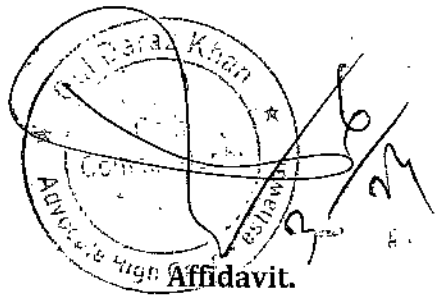
- 1. That the Applicant/Appellant filed a Service Appeal bearing No.5735/2021 against Impugned Orders dated impugned Appellate Order dated 19/04/2021 whereby the

departmental appeal of the appellant was rejected by the Respondent Department. **(Copy of the Service appeal bearing No.5735/2021 is annexed as annexure "A")**. The contents of the service Appeal No.5735/21 may pleased be considered as the integral part of the instant application.

2. That upon institution of the abovementioned service appeal, the Respondent Department VERBALLY assured the Petitioner/Appellant, by causing undue-influence, Coercion, fraud, etc, that if she withdraws the service appeal she will be reinstated, therefore, the applicant being a lay-woman without having knowledge of the implication of withdrawal application, filed, the withdrawal application on 30<sup>th</sup> November, 2022 *without mentioning, therein the reason for the withdrawal, or, even a permission to file a fresh service appeal*. The honorable Tribunal was pleased to dismiss the appeal as withdrawn and consigned the same on 30/09/2022. **(Copy of the Withdrawal Application and Order dated 30<sup>th</sup> November, 2022 are Annexure "B" and "D")**
3. That as mentioned above, the respondent department upon withdrawal of her service appeal by her, failed to honor their commitment and thus caused Fraud, Coercion, un-due influence upon the appellant, hence the instant application as mentioned in the subject above.
4. That the Petitioner/appellant has more than 13 years of service at her credit, belongs to a very poor family, knocked each and every door of the respondent department but no heed was given to her requests, knowingly that she is the victim of void orders.
5. That the petitioner is sanguine of her success, if she is allowed to contest her case on merit

It is, therefore, most humbly prayed and requested that the Petitioner /Appellant may please be allowed to contest her Service Appeal bearing No.5735/21 by setting aside the Order/Judgment/Decree dated 30 November, 2022, and Order for the restoration of Service Appeal bearing No.5735/21 may kindly be passed in favor of the Petitioner/Appellant. Any other remedy deems fit and appropriate may also be granted under the circumstances.

*slm*



Through

Applicant/Appellant

*[Signature]*  
 Muhammed Adeel Butt,  
 Advocate, High Court,  
 Peshawar.  
 0334-9166514

I Sana Bibi, Ex. T.T, District Khyber, do hereby solemnly affirm and declare that all the contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal

*[Signature]*  
 Deponent.

3 "A"

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 5735 /2021

Sana Bibi

V/S

Education Deptt.

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**APPELLANT**

*Sana Bibi*  
Sana Bibi

THROUGH:

*M. Asif Yousafzai*  
(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME OF PAKISTAN

*Taimur Ali Khan*  
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT,

(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

(ASAD MEHMOOD)  
ADVOCATE HIGH COURT

(SHAHKAR KHAN YOUSAFZAI)  
ADVOCATE PESHAWAR.

**ATTESTED**

Room No. Fr-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar Cantt.  
Contact No. 03339103240

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

APPEAL NO. \_\_\_\_\_ /2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 5240

Dated 17/5/2021

Mst. Sana Bibi, Ex-TT  
GGPS, Said Rahman Kally, Bara District Khyber.

(APPELLANT)

**VERSUS**

1. The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
2. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer, (Female), District Khyber.

(RESPONDENTS)

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APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER 16.11.2017, WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE AND AGAINST THE ORDER DATED 19.04.2021, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

create-day  
Registrar  
17/5/2021

**PRAYER:**

**ATTORNEY**  
*[Signature]*

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 16.11.2017 AND 19.04.2021 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY BE DIRECTED TO REINSTATE THE APPELLANT INTO HER SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT

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RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was working on the post of TT at GGPS Said Rahman Kally Bara District Khyber and was performing his duty with zeal and devotion, whatsoever assigned to him and no complaint has been filed against the appellant regarding performance of his duty.
2. That due to militancy, schools were closed in some affected area of Newly Merged Area (then FATA) and due that reason, the school of the appellant was also closed due to which the appellant was unable to perform her duty and was removed from service on 16.11.2017 on the basis of absence with issuing charge sheet, conducting inquiry and issuing show cause notice to the appellant. Copy of removal order dated 16.11.2017 is attached as Annexure-A.
3. That when the appellant filed got the knowledge of her removal order she filed departmental appeal, however he did not keep copy of departmental appeal which may be requisite from the Department. The respondent No. 2 directed for inquiry on the departmental appeal of the appellant in which inquiry was conducted and inquiry officer give different recommendations however, with giving reason by the respondent No. 2 for not agreeing with the recommendations of inquiry officer rejected the departmental appeal of the appellant on 19.04.2021. Copies of inquiry report and rejection order dated 19.04.2021 are attached as Annexure-B & C.
4. That the appellant has no other remedy but come this august Tribunal on the basis of following grounds amongst others.

GROUND:

- A) That the impugned orders dated 16.11.2017 and 19.04.2021 are against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That no inquiry was conducted against the appellant before passing the impugned order of removal from service which is violation of law and rules and as such the impugned orders are liable to be set aside on this ground alone.

ATTESTED

- C) That no charge sheet and statement of allegations were not communicated to the appellant before imposing major punishment of removal from service which is violation of law and rules.
- D) That even show cause notice was not served to the appellant before imposing the major punishment of removal from service which is violation of law and rules.
- E) That inquiry was conducted against the appellant on her departmental appeal in which inquiry officer gave different recommendations but respondent No. 2 rejected the departmental appeal of the appellant with giving reason for not agreeing with the recommendations of the inquiry officer.
- F) That the appellant did not willfully remain absent from her duty, but due to the militancy in the newly Merged Area (then FATA) the school of the appellant was closed due to which she was unable to perform her duty and was compel to remain absent from her duty. Therefore the appellant needs to be treated with lenient view.
- G) That the appellant has been condemned unheard and has not been treated according to law and rules.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

**ATTESTED**

APPELLANT  
Sana Bibi  
Sana Bibi

THROUGH:

*Am Saif*  
(M. ASIF YOUSAFZAD)

ADVOCATE SUPREME OF PAKISTAN

*Taimur Ali Khan*  
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT,

(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

(ASAD MEHMOOD)  
ADVOCATE HIGH COURT

(SHAHKAR KHAN YOUSAFZAD)  
ADVOCATE PESHAWAR.



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Agency Education Office  
Khyber Agency at Jamrud

Phone: 091-5820584 Fax 091-5820265

NOTIFICATION

WHEREAS the Agency Education Officer Khyber Agency had come to know through the AAEO (Female) Bara Khyber Agency, that Mst: Sana Bibi TT P/No/00414825 GGPS Said Rahman Killi Bara Khyber Agency is an absent since her appointment order AEO Khyber Enst No.1341-46 dated 03/09/2006. It was published in daily news paper Daily Aaj and Daily Awasaf dated 5<sup>th</sup> April 2017 informed all (101) female ghost employees.

2. WHEREAS On the recommendation of Enquiry Committee vide this office Enst No.1691-1697 dated 20/03/2017, The undersigned charge sheeted you vide this office Enst No. Enst No.1491-96 Charge Sheet dated 21/09/2017.
3. WHEREAS Your reply to the charge sheet declared unsatisfactory by the Enquiry Committee constituted vide this Office Enst No.1575-78 dated -21/09/2017 for personal hearing vide Enquiry Officers letter No.208 dated 19/10/2017.
4. NOW THEREFORE In exercise of the powers conferred under Para 4 b (iii). of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) rules, 2011, the competent Authority: Agency Education Officer Khyber, is pleased to impose a major penalty "removal from service" upon Mst: Sana TT P/No/00414825 GGPS Said Rahman Killi Bara Khyber Agency with immediate effect.

(MUHAMMAD JADOON KHAN)  
AGENCY EDUCATION OFFICER  
KHYBER AGENCY AT JAMRUD

Endst No. 3570-81 Dated 16/11/2017

Copy forwarded to the:-

1. Additional Chief Secretary FATA Secretariat Peshawar.
2. Secretary, SSD FATA Peshawar.
3. Director of Education FATA Peshawar.
4. Political Agent Khyber Agency at Peshawar.
5. DDM&E, Directorate of Education FATA Peshawar.
6. AG Sub Office Peshawar.
7. Agency Accounts Officer Khyber Agency at Jamrud.
8. All AAEOs Local Office.
9. Female Accounts Section.
- 10, 11. Superintendent /Accountant for entry in her service book.
11. Official concerned.
12. Office Copy.

**ATTESTED**

*CP*

AGENCY EDUCATION OFFICER  
KHYBER AGENCY AT JAMRUD

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B (5)

INQUIRY REPORT

The Director of Education,  
Newly Merged District KPK,  
Warsak Road, Peshawar.

APPEAL FOR RE-INSTATEMENT

Subject:  
Memo.

Reference to the Endst No: 16974-76 dated: 24/12/2018, the case of the Mst. Sana Bibi (Ex-IT) of GGPS Said Rehman Killi Bara District Khyber for Re-Instatement to the undersigned to probe the real picture.

Background History:

The situation of Tehsil Bara was very tense at about thirteen years ago and the flame of insurgency and even miscreants hazard all the sections of Pakistan especially Education Sector in FATA (NMFD) is severely affected. As a result, the education sector in District Khyber has been facing various problems including building collapse of Schools, drop out ratio, child labor and mental health of the School Children.

Similarly, our teachers community faced so many problems and even challenges especially female teachers. All the female who were posted in different schools, having different threats and one of the female teacher was shot dead in Shah Kas Area by unidentified gun men.

Therefore, after 1<sup>st</sup> September, 2009 when Pak Army launched an Army operation against all types of miscreants, then all sorts of Schools (M/F) become closed for three to four years and teaching learning process stopped. Most of the teachers redeployed in different schools of Tehsil Jamrud and Landi Kotal for some time.

The schools of female started open in 2014 and the process of learning started once again. During these days, many teachers (M/F) did not attend their schools and enjoyed their free life at homes. But slowly and gradually, after strict scrutiny, most of them joined their duties in their respective schools. The case of the Mst. Sana Bibi was pointed out when AAEO (Female) Bara visited Bara Tehsil and found absent the concerned teacher at GGPS Said Rehman Killi Bara and

**ATTESTED**

proxy / substitute teachers was performing her duty instead of Mst. Sana Bibi. The  
(F) reported the case to AEO (Khyber) and she was charge sheeted under Endst No.  
-96 Dated: 21/09/2017.

After that, she was appeared before the Inquiry committee on Oct-2017 did not satisfy the  
members by giving documentations, Officials letters or other proofs. Therefore, on the base of  
the no evidence, she was struck off from service.

Procedure Adopted:

After receiving the Notification of Director of Education (NMED), the undersigned  
informed the concerned teacher by Personal hearing under letter No: 511/MSK Dated: 27/12/2018  
to attend the DEO Office Jamrud on 2<sup>nd</sup> January 2019, and bring all the Academic and Official  
letters along original CNIC and Domicile.

Flag B:

So, the concerned teacher attended the DEO Office Jamrud on 3<sup>rd</sup> January 2019  
(Thursday). She was accompanied by her husband, Abdal Akbar. After Question / Answer  
session, I handed over a Questionnaire to Mst. Sana Bibi to fill up with relax and satisfaction  
way. There were 11 (Eleven) questions in the Questionnaire which were related to the whole  
Service History of the teacher. During, oral statement, she confessed that she did not attend the  
School at about 06 or 07 Months and was sending her cousin for teaching which was not legal.  
But, she tried to engage the students by her cousins teaching.

She further told to the undersigned that she is ashamed by her action and want to be  
apologize for the previous 06 or 07 Months duty when she sent her cousin to school for duty. She  
provided all her documents and official letters i.e. Appointment Order, Charge Report, Medical  
Report, SSC Certificate, Deeni Sand, Pay Slip, CNIC, Photo Copies of Service Book, Photo  
Copies of Teacher Attendance and Domicile etc.

Facts and Findings:

The undersigned, personally visited the School and met with chowkidar whose name was  
Abdur Rehman and Caller's name was said Jamala. The school was situated near Wali Market.

**ATTESTED**

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Gamber Khel Area. The land owner of the School whose name is Said Rehman and he is the father of Mst. Sana Bibi (Ex-TT).

During personal hearing, as I already mentioned that she provided the following documentation which details are as under:-

- 1. Name: Mst. Sana Bibi
- 2. F/ Name: Said Rehman
- 3. D.O.B: 12/12/1981
- 4. Appointment Order: Endst No: 1341-46 Dated: 03/09/2006 (Flag-C)
- 5. Charge Report: Dated: 13/09/2006 (Flag-D)
- 6. Medical Report: Dated: 07/09/2006 (Flag-E)
- 7. CNIC No: (of Mst Sana Bibi) 21201-5231715-6 (Flag-F)
- 8. CNIC of her husband: 21201-6693373-7 (Flag-G)
- 9. Domicile: (Flag-H)
- 10. Pay slip: February-2017 (Flag-I)
- 11. Personal Statement on stamp paper: (Flag-J)
- 12. Photocopies of Service book: (Flag-K)
- 13. Photocopies of attendance: (Flag-L)
- (w.e.f Sep-2006 to May-2009)
- (w.e.f Feb-2015 to Feb-2016)
- 14. Questionnaire: (Flag-M)
- 15. SSC(A)- Certificate: (Flag-N)
- Roll No: 114139 Session-2003(A) Marks: 549/900
- 16. Deeni Sanad: Tajwad: (Flag-O)
- Marks: 399/400 Dated: 01/01/2005 Madrisa: Taleemul Quran Jamrud
- 17. Statement of Azra Naz (SST): (Flag-P) (on Stamp paper)
- 18. NIC of Said Rehman: (Flag-Q)
- 19. Domicile of Sana's Husband: (Flag-R)

For more information's, I collected more details and truth about Mst. Sana Bibi (Ex-TT) through telephonic call with Azra Naz (SST) who is serving her duty at GGMS Malang Ghari Bara. Because she had remained as Head Teacher before SST promotion at GGPS Said Rehman

ATTESTED

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She told me that the concerned teacher attended the school regularly and taught to the  
Kamar and Nazra.

RECOMMENDATIONS:

After scrutiny the whole documents and statements of the employees, the undersigned came to the conclusion that the following recommendations should be carried out for the betterment of public interest.

1. It is recommended that the documents of the Mst. Sana Bibi (Ex. TT) i.e. SSC(A) certificate and Deeni Sanad should be verified from the respective BISE Peshawar and Madrassa with priority bases.
2. It is also recommended that if these both documents verified then Re-Instatement of the Ex.TT should be done with two major decisions.
3. After RE-INSTATEMENT on service, two ANNUAL INCREMENTS should be deducted from her Basic Pay due to the negligence of Duty when she sent a substitute for some time.
4. It is also recommended that the period between the date of struck off and Re-Instatement date should be converted in LEAVE WITHOUT PAY and proper entries should be made in the Service Book.
5. After RE-INSTATEMENT, an Affidavit on stamp paper from the concerned Ex.TT should be taken with such remarks that she will be regular in future and will not use/allow any substitute otherwise she will be terminated without any notice.

ATTESTED

INQUIRY OFFICER

*Saleem Khan*  
 17/01/2019  
 MR. SALEEM KHAN (PRINCIPAL)  
 GHS SUK KAMAR JAMRUJ  
 KHYBER DISTRICT



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E O

**DIRECTORATE OF ELEMENTARY AND SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA**

**NOTIFICATION.**

1. WHERE AS Mst Sana Bibi (Fake) TT GGPS Said Rahman Kally Bara District Khyber was proceeded under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of absent from official duty.
2. AND WHEREAS, the DEO Khyber being competent authority fulfil codal formalities and then the teacher concerned was removed from service vide Notification Endst No.3570-81 dated 16.11.2017.
2. AND WHEREAS, she has submitted an appeal to the Appellate Authority (Director of Elementary & Secondary Education Khyber Pakhtunkhwa) against her removal from service.
3. AND WHEREAS, the Appellate Authority sent her appeal to DEO Khyber vide letter No.3269 dated 11.03.2021 for supported document/record. As per the report of the DEO Khyber the appointment order of the above named teacher is fake and filed to prove attendance in her school.
4. AND WHERE AS, the DEO Khyber has submitted record/documents of the above named teacher vide his letter No.1908 dated 25.03.2021.
5. NOW THEREFORE, the Appellate Authority (Director E&SE) Khyber Pakhtunkhwa is pleased to regret the appeal in respect of Mst Sana Bibi Ex-TT GGPS Said Rahman Kally Bara District Khyber.

**DIRECTOR.**

Endst: No. 5755-58 /F No. E-6/Vol:IV/Appeal(F)Gen. Dated Peshawar the 19/04/2021.

Copy forwarded for information and necessary action to the:-

1. District Education Officer Khyber w/r to his No.1908 dated 25.03.2021
2. Mst Sana Bibi TT GGPS Said Rahman Kally Bara District Khyber.
3. P/A to Director E&SE, Khyber Pakhtunkhwa, Peshawar.
4. Master File.

**ATTESTED**

*S. Khan*  
Deputy Director (Estb :)  
Merged Area  
19/4/21

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Service Appeal No. 5735/2021

Sana Bibi

V/S

Education Deptt:

**APPLICATION FOR WITHDRAWAL OF INSTANT APPEAL**

**RESPECTFULLY SHEWETH:**

1. That the appellant has filed the instant appeal in this Honorable Tribunal against the order dated 16.11.2017, whereby she was removed from service and against the order dated 19.04.2021, whereby her departmental appeal of the appellant was rejected.
2. That the instant appeal fix for preliminary hearing for today i.e 30.11.2022 before this Honorable Tribunal, however the appellant did not want to pursue her case and wants to with draw it.

It is therefore most humbly prayed that on the acceptance of this application the instant appeal may kindly be withdraw.

**ATTESTED**

THROUGH:

APPELLANT



**TAIMUR ALI KHAN  
ADVOCATE HIGH COURT**

A. No-5735/22 (14)  
Sana Bibi vs Govt

03.10.2022

Counsel for the appellant present.

Despite repeated requests made by the learned counsel for the appellant for adjournment, the case could not be argued at preliminary hearing stage. Today, again learned counsel for the appellant requested for adjournment. Last chance is granted to the learned counsel for the appellant to make sure his appearance and argue the case on the next date. To come up for preliminary hearing on 30.11.2022 before S.B.

(Mian Muhammad)  
Member (E)

30<sup>th</sup> Nov. 2022 01. Counsel for the appellant present and submitted an application for withdrawal of the instant appeal. Application is placed on file. Dismissed as withdrawn. Consign.

02. Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal on this 30<sup>th</sup> day of November, 2022.

ATTESTED

(Kalim Arshad Khan)  
Chairman

Date of Presentation of Application: 22-5-23  
Number of Pages: 17  
Copies: 5  
Urgent: 10/-  
House of Court: 22-5-23  
Date of Court Order: 22-5-23  
Date of Delivery of Copy: 22-5-23



