

15th Nov, 2022

1. Brother of the petitioner on behalf of the petitioner present Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Shuja Ali, ADEO for respondents present.


02. The Service appeal No. 707/2012 was filed by the petitioner to get eight months salaries from 01.02.2011 to 31.08.2011. The appeal was decided in the following manner:-

“The delay of four days could not be taken to defeat the appeal of the appellant for the reason that the order was passed on 09.12.2012 and there is no proof of the fact that it was communicated to the appellant on the same day. It definitely takes few days to reach the aggrieved civil servant, therefore, this departmental appeal cannot be held to be time barred. Secondly the departmental appeal was submitted to the DCO. Under the Khyber Pakhtunkhwa Civil Servant (Appeal) Rules, 1986 the departmental appeal is to be made not to the appellate authority but in the office in which the appellant is serving. It is for the office to send the departmental appeal to the concerned authority if he himself is not the appellate authority (Rules-4). The DCO at the relevant time did figure in the hierarchy of the department. He should have referred the appeal to the appellate authority, if he himself was not the appellate authority. Admittedly, the department has not initiated the proceedings under the Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary) Rules 2011. The proper procedure for the department was to have initiated the regular proceedings under the Rule-5 or under Rule-9 of the said rules. The competent authority could not decide the same on the basis of any affidavit by the appellant.

Resultantly, this appeal is accepted. The impugned order is set aside and the department is directed to initiate and conclude the proper proceedings within a period of three months from the date of receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room”.

03. Whereas through this petition the petitioner has sought some other relief which was neither subject matter of the appeal nor was granted in the said appeal, therefore, while sitting as executing court, the Tribunal cannot go beyond the terms of the judgment, hence, this petition is found misconceived and is dismissed. Consign.


04. *Pronounced in open court at Abbottabad and given under my hand and seal of the Tribunal on this 15th day of November, 2022.*


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

15.06.2022

None for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Shuja Ali, ADEO Litigation for the respondents present.

Representative of the respondents department submitted documents containing the case of leave encashment that has been submitted to Finance Department for provision of funds, which according to them will be provided in the next financial year. Notice be issued ^{to} petitioner as well as her counsel for the date fixed. To come up for further proceedings on 15.08.2022 before S.B at Camp Court Abbottabad.


(Fareeha Paul)
Member (E)
Camp Court A/Abad

17th Oct. 2022

None present on behalf of the petitioner. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Notice be issued to petitioner and his counsel. To come up for further proceedings on 15.11.2022 before S.B.


(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar