

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

Imdadullah

Versus

Superintendent and others

**REJOINDER ON BEHALF OF APPELLANT TO THE REPLY**  
**FILED BY RESPONDENTS**

Respectfully Sheweth:

**Preliminary objections:**

1. No correct. The appeal is quite competent, not time barred because the same were not served upon appellant so is maintainable.
2. Not correct. No estoppels ever exist because appellant was removed from service for no legal reason.
3. No correct. The appellant has cause of action as stated above.
4. No correct and as stated above, appellant has locus standi to file the present appeal.
5. No correct. All the necessary parties are impleaded and are sufficient for the purpose.

6. Not correct. No limitation runs against vide and illegal orders.

**ON FACTS:**

1. No commented upon by the respondents regarding requisite qualification, trainee and appointment.
2. Admitted correct to the extent of direction to report before the Superintendent. District Jail Timergara but was unable to do so because of illness.
3. Not correct and as stated earlier, he was sick and the prescriptions of hospital mentioned there is the ample proof of his illness. This para of the respondents is not replied to the contents of the para of the appeal.
4. No correct, the medical receipts and fitness was communicated to Superintendent Jail Warder does not know the prison rules to be followed.
5. No correct the procedure for removal from service under any law was not followed in letter and spirit. Hence absence does not constitute misconduct under the same is not deliberate or willful. In presence of medical evidence, the absence, if any, was not willful. The appellant reported for duty to the concerned

Quarter after fitness but the jail authority refused to hand over the charge of the post.

6. Admitted correct by the respondents regarding submission of departmental appeal and its rejections by the authority.

### **GROUND**

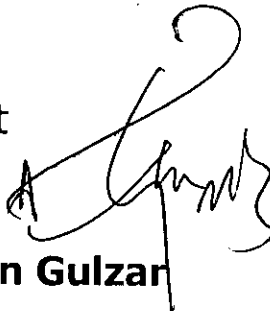
- A. Not correct. No willful absence was made and the same was due to sickness supported by medical evidence.
- B. Not correct. The medical receipts were handed over to the jail authorities at Timergara.
- C. No correct. The reason of absence explained in the above paras.
- D. Totally false and absolutely incorrect. No record of inquiry proceeding was ever attached with the comments, what to speak of providing fair, chance for rebuttal of the allegations of absence.
- E. Not correct, the record says so that neither personal hearing and self defence was afforded to appellant nor any statement of any witness was recorded on presence of appellant nor opportunity of cross examination was given to appellant.

F & G Not correct. The impugned order are not based on cogent reasons.

H. Not correct. The impugned orders were never served upon appellant but the same were collected from office on 08.06.2021 and as per verdict of the court, limitation shall run from the date of received and not from the date born on the impugned orders.

I. Not correct, neither the impugned orders were served upon appellant nor regular inquiry was conducted nor any attention was paid to the illness / medical receipts, so the same are not only illegal but without any substance.

It is, therefore, prayed that the departmental appeal may please be accepted as prayed for.

Appellant  
Through   
**Ambreen Gulzar**  
Advocate High Court.

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Superintendent Jail

**APPLICATION FOR CONDONATION OF DELAY, IF ANY**

**Respectfully Sheweth:**

1. That the subject appeal is fixed for today for disposal before this Hon'ble Tribunal.
2. That as per the record and contents of the appeal, no delay ever exists or if any, the same shall be condoned, in the interest of justice by keeping in view the scenario of the case.
3. That limitation is not a legal question but is a factual one and as per the judgments of the superior courts, the technical should be avoided and matters be decided on merits and not on technical ground of limitation.

It is, therefore, prayed that the delay, if any, may kindly be condoned and the appeal may please be decided on its merits, in the best interest of justice

Appellant/Applicant  
Through  
  
**Ambreen Gulzar**  
Advocate High Court.