

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**FAREEHA PAUL ... MEMBER (Executive)**

*Service Appeal No.294/2017*

Noor Islam, Ex-ASI No. 1436, R/o Peshawar.

.....*Appellant*)

Versus

1. **Superintendent of Police Headquarters Peshawar.**
  2. **Capital City Police Khyber Pakhtunkhwa, Peshawar.**
  3. **Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
  4. **Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.**
- .....*(Respondents)*

Present:

Roeda Khan,  
Advocate.....For appellant.

Mr. Muhammad Riaz Khan Paindakhel,  
Assistant Advocate General.....For respondents.

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Date of Institution.....29.03.2017  
Dates of Hearing.....08.12.2022  
Date of Decision.....09.12.2022

**APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER DATED 20.06.2013 PASSED BY RESPONDENT NO.1, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE, AND AGAINST THE ORDER DATED 26.08.2016 OF RESPONDENT NO.2 WHEREBY THE APPEAL OF THE APPELLANT WAS DISMISSED AND AGAINST THE REJECTION ORDER DATED 01.02.2017 OF RESPONDENT NO.3, WHICH WAS COMMUNICATED TO THE APPELLANT ON 03.03.2017.**

**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** The appellant was initially appointed as Constable in the Police Department on 20.06.1995. He alleged that he

was falsely implicated in some criminal cases and was behind the bars since his arrest i.e 24.10.2012; that the respondent department initiated a formal inquiry and after inquiry the appellant was dismissed from service vide impugned order dated 20.06.2013 by respondent No.1; that the impugned order was never communicated to the appellant; that the appellant, after acquittal from the criminal cases, approached the department for rejoining of duty but he was informed that he was dismissed from service; that the appellant feeling aggrieved filed departmental representation before respondent No.2 which was rejected on 26.08.2016; that the appellant then filed review petition, which was also rejected vide order dated 01.02.2017, hence the instant service appeal in this Tribunal on 29.03.2017.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

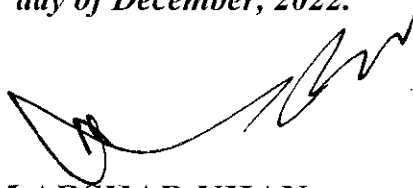
3. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.

4. The Learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG controverted the same by supporting the impugned order(s).

5. In this case the impugned order was passed on 20.06.2013, against which the appellant filed departmental appeal on 07.06.2016 which was rejected/filed on 25.08.2016 holding the same to be hit by time limitation. He then filed revision petition which also met the same fate on 01.02.2017, whereafter the instant appeal was filed on 29.03.2017. Not only the departmental representation but also appeal before the Tribunal is barred by limitation. Although the appellant has alleged that

the rejection order dated 02.02.2017 was communicated to him on 03.03.2017 but there is no explanation as to how that was communicated. Similarly because of the delay in filing departmental appeal, the appeal before tribunal is not maintainable. Moreover, the delay in filing this appeal is also not been explained nor any application for condonation of delay has been filed. According to 2018 SCMR 997 titled "*Syed Rizwan Ahmad versus Secretary CADD Islamabad*", the august Supreme Court of Pakistan held that where a right was required to be asserted, it had to be done vigilantly and no indulgence could be shown to indolent and negligent litigant. In matters relating to arising out the service matters, a civil servant had to display vigilance and promptitude in approaching the appropriate fora and unexplained delay was always a material factor which could prove fatal for him. Service appeal No. 1493/2013, 1494/2013 and 1495/2013 of Kaleem Ullah, Wasim Javed and Shahzad Rahim, against the same dismissal order impugned here, have already been dismissed vide judgment dated 28.10.2016 by this Tribunal. This being so, this appeal is dismissed. Costs shall follow the event. Consign.

6. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 9<sup>th</sup> day of December, 2022.*



**KALIM ARSHAD KHAN**  
Chairman




**FAREEHA PAUL**  
Member (Executive)


**ORDER**

9<sup>th</sup> Dec, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Asst: AG for respondents present.
2. Vide our detailed judgement of today placed on file, this appeal is dismissed. Costs shall follow the event. Consign.
3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 9<sup>th</sup> day of December, 2022.*



**(Kalim Arshad Khan)**  
Chairman

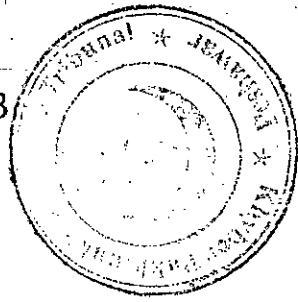


**(Farzha Paul)**  
Member(Execution)

(1)

**BEFORE THE CHAIRMAN SERVICES TRIBUNAL, K.P.K,**  
**PESHAWAR.**

Service Appeal No. 1493/2013



*1516*  
*24-10-13*

Kaleem Ullah FC No. 5174,  
S/o Nawab Zada R/o Musazai, Umerkhel, Tehsil and District  
Peshawar.....(Appellant)

**VERSUS**

1. S.P. Headquarter, *Police line, Peshawar.*
2. C.C.P.O, Peshawar: *Police line, Peshawar.*
3. Provincial Police Officer, *Police line C.P.O Peshawar.*  
Khyber Pakhtunkhwa, Peshawar.....(Respondents)

**APPEAL UNDER SECTION 4 OF THE**  
**SERVICE TRIBUNAL ACT, 1974, AGAINST**  
**THE ORDER DATED 20/06/2013 PASSED BY**  
**RESPONDENT NO. 1, WHEREBY THE**  
**APPELLANT HAS BEEN AWARDED THE**  
**PUNISHMENT DISMISSAL FROM SERVICE**  
**WITH IMMEDIATE EFFECT.**

*24/10/13*

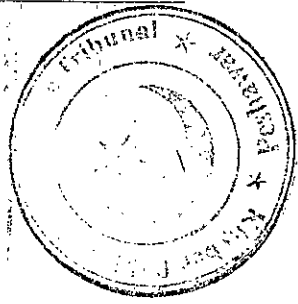
**Prayer:**

re-submitted to  
the filed.

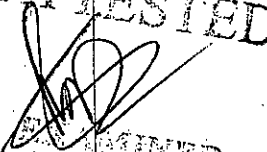
*11/11/2013*

On acceptance of this appeal, the impugned order dated 20/06/2013 of the respondent No. 1 may kindly be set aside, and the appellant may kindly be order to the reinstated in service with all back benefits.

**ATTESTED**  
  
Chairman  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	28.10.2016	<p style="text-align: center;">3</p> <p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <div style="text-align: right;">  </div> <p>1. APPEAL NO:1493/13 Kaleem Ullah. 2. Appeal No. 1494/13, Wasim Javed. 3. Appeal No. 1495/13, Shehzad Rahim.</p> <p style="text-align: right;">.....(Mr. Arbab Aziz Ahmad, Advocate)</p> <p style="text-align: center;">Versus</p> <p>S.P Headquarter, Police Line, Peshawar and others.</p> <p style="text-align: right;">.....(Mr. Muhammad Jan, Government Pleader)</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER:</u> Involved in a case vide FIR No. 1057 dated 24.10.20125 under Section 17(3) Haraba/412 PPC at P.S Pahari pura Peshawar, the above appellants were dismissed from service vide order dated 20.06.2013 and their departmental appeals also did not proved fruitful, hence this appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal act, 1974 is against the order of dismissal and for reinstatement with back benefits. We, therefore, propose to dispose of these appeals by this single judgment.</p> <p>2. Facts of the said criminal case are reproduced here below from the report of departmental enquiry conducted by DSP, Kiramat Shah, copy of which is available on file:-</p> <p>“Facts leading to the instant departmental enquiry against the police officers/officials named above are that on 24.10.2012 complainant Arshad Ali S/O Mumtaz Hussain r/o Mardan in</p>

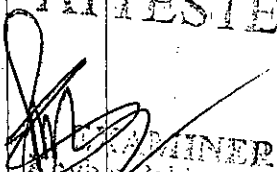
**ATTESTED**



SEALING OFFICER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

accompany with Taimur s/o Abdul Ghafoor and Zubair Shah s/o Amir Mohammad r/o Kass Koroona Mardan came to Police Station Pahari Pura and reported that they deal in money Exchange. They left Mardan for Peshawar in their Motor Car bearing No. 7583/IDJ Corolla Model 19698-99 white color in order to Change Foreigner Currency into Pakistani Currency, as they crossed Motorway Toll Plaza, they saw a pick up white color standing on road side at motor way wherein 07 persons out of some were in Police Uniform and some were in plain clothes, signaled them to stop, but they ignored the signal and continued crossing their way to Peshawar. They chased us and signaled us with lights and at last we were intercepted by them near Ring Road in the limits of Police Station Paharipura. They in aggressive mode asked us why they did not comply with the signal to stop and pull down us from our vehicle and took us towards Wapda colony at Nowshera. They searched us and snatched 03 lacs Saudi Riyal, One Lac Pakistani rupess and one Nokia SIM No.0300-5958076 from his (Complainant), 70,000 Saudi Riyal, 7250 UAE Darham, 509 Qatar Riyal and mobile cell No.0312-8028181 from Taimur and on mobile cell No.0301-8303324 from Zubair Shah. Beside they also snatched Motor Car No. 7583/IDJ, 30 bore pistol alongwith license copy lying in motor car. They threatened us of dire consequences in case of reporting the matter to any and went away. The complainant added that they can identify the accused on appearance. As such on the report of complainant a criminal case vide FIR No.1057 dated 24.10.2012 u/s 17(3)/412/13-AO/7-ATA was registered in Police Station Paharipura against unknown accused."

ATTESTED



Service Tribunal,  
Peshawar

To dig out facts of this criminal case an investigation team was constituted by authority who ultimately laid their hands on the appellants, traced out the Govt: Vehicle which was used in omission of the offence and also recovered the case property, hence the appellant were departmentally proceeded and dismissed.

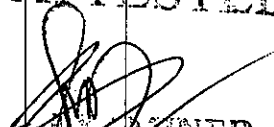
3. Arguments heard and record perused.

4. Learned counsel for the appellant submitted that the appellant were dismissed from service on the basis of the above referred criminal case and which later on they were put to trial before the competent court they were acquitted vide order dated 27.01.2014 of the learned Additional Sessions Judge-IX. He further submitted that the appellants were falsely implicated in the said criminal case and the department without waiting for the outcome of the criminal proceedings, have unlawfully dismissed them from service. He submitted that impugned orders may be set aside and appellants may be reinstated into service with all back benefits.

5. Learned GP resisted the appeals by submitting that outcome of the criminal proceedings cannot be linked with departmental proceedings on the basis of misconduct of the appellants. He submitted that all codal formalities were duly fulfilled and it is evident from record that the appellant were found guilty in the departmental enquiry conducted against them. He also argued that the appellants were involved in a heinous offense and being the police officials the penalty awarded to them was not harsh. He submitted that the appeal may be dismissed.

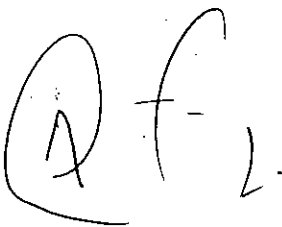
6. We have carefully perused the record and have heard hearing pro and contra arguments of learned counsel for the parties. A careful perusal of the record would show that the appellants were not directly nominated in the FIR which aspect of the matter conveys that the complainant of FIR namely Arshad Ali had no ill will or malafide against the appellants. In view of heinous nature of

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**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar



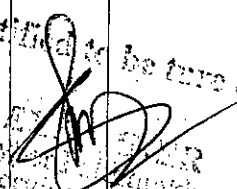
the offence, the department constituted investigation team and it is evident from the enquiry report of DSP, Karamat Shah that snatched amount was also recovered from possession of the appellants while juxtaposing this factual aspect of case with the judgment of the learned Court dated 27.07.2014 it was noted that these facts were not highlighted before the learned Trial Court. It appears from the judgment of the learned trial Court that complainant, Arshad Ali has shown concession in his statement in the criminal trial and thus for the said technical reason the appellants were acquitted in the criminal case against them. So for departmental proceedings are concerned it is evident that full opportunity of defense and hearing has been provided to the appellants. The appellants have not shattered proceedings of the enquiry officer nor that the findings of the enquiry officer have been termed false. The enquiry report shows that the enquiry officer had conducted enquiry in their presence in the jail premises and they were given opportunity to cross examine the witness. The civil servant can be proceeded independent of the outcome of the criminal trial. The offense obviously is one of serious nature and the appellants are obviously that from the police department. We in the circumstances of the case are not persuaded to show leniency to interfere in the impugned orders. Resultantly, all the above appeals are dismissed. Parties are left to bear their own costs. File be consigned to the record room after its completion and compilation.



(ABDUL LATIF)  
MEMBER



(PIR BAKHSH SHAH)  
MEMBER

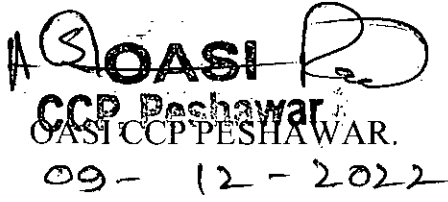
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 Service Tribunal,  
 Faisalabad

ANNOUNCED  
28.10.2016

Date of Presentation of Application 05/03/2020  
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EX کنستیبیل نور اسلام 1436 ولدیت میر احمد خان سکندہ پی نوشہرہ تاریخ بھرتی: بحوالہ OB 2046 مورخہ 19.06.1995

1. بحوالہ OB 1124 مورخہ 09.05.2008 معطل لائن۔
2. بحوالہ OB 4277 مورخہ 22.11.2011 معطلی سے بحال ہو کر پولیس لائن۔
3. بحوالہ OB 4088 مورخہ 14.11.2012 معطل لائن۔
4. بحوالہ OB 2216 مورخہ 20.06.2013 محکمہ پولیس سے ڈسمس کیا گیا۔

  
OASI  
CCP Peshawar  
OASI CCP PESHAWAR.  
09 - 12 - 2022