

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT D.I.KHAN

Service Appeal No. 15908/2020

Date of Institution ... 14.12.2020

Date of Decision... 20.03.2023

Abdul Waheed S/O Shaista Khan Caste Kundi. R/O Gul Imran Tehsil & District Tank, Ex-Cook/Constable No. 74 Police Department, District Tank. Cell # 0315-9880809.

... (Appellant)

VERSUS

Provincial Police Officer (IGP), Khyber Pakhtunkhwa, Peshawar and 02 others.

... (Respondents)

MR. SHEIKH IFTIKHAR-UL-HAQ,
Advocate

--- For appellant.

MR. ASAD ALI KHAN,
Assistant Advocate General

--- For respondents.

MR. KALIM ARSHAD KHAN
MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts surrounding the instant appeal are that the appellant was appointed as Cook Constable in Police Department District Tank on 24.04.2010. The appellant at the time of appointment had allegedly submitted Secondary School Certificate issued from Board of Intermediate and Secondary Education Bannu. The said certificate was found bogus on its verification from the concerned Board, therefore, the appellant was dismissed from service vide O.B bearing No. 1235 dated 12.08.2010 and case FIR No. 560 dated 19.09.2010 under

sections 420/468/471 PPC was also registered against the appellant in Police Station Tank. The appellant preferred departmental appeal before the Deputy Inspector General of Police Dera Ismail Khan Range followed by filing of revision petitions before the Deputy Inspector General of Police Dera Ismail Khan Range as well as Inspector General of Police Khyber Pakhtunkhwa Peshawar , however neither the appeal nor the revision petitions were responded, hence the instant service appeal.

2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they raised certain legal as well as factual objections including the objection of limitation.


3. Learned counsel for the appellant argued that the appellant had passed Secondary School Certificate examination from BISE Peshawar in the year 1990 and the Secondary School Certificate issued to him by BISE Peshawar was found genuine on its verification; that no charge sheet as well as statement of allegations was issued to the appellant and he was condemned unheard; that the allegation of producing fake and bogus Secondary School Certificate was found false and the appellant has been acquitted in the criminal case registered against him; that the rights of the appellant as guaranteed under Articles 4 & 25 of the constitution of Islamic Republic of Pakistan have been badly

violated; that the impugned order is void ab-initio and no limitation would run against the same. In the last he requested that the impugned order may be set-aside and the appellant may be reinstated in service with all back benefits.

4. On the other hand, learned Assistant Advocate General for the respondents contended that the appellant had produced bogus Secondary School Certificate of Bannu Board for his appointment as Constable Cook, however the said certificate was found bogus on its verification from the concerned Board; that the appellant had produced bogus Secondary School Certificate of Bannu Board as his date of birth in the said certificate was falsely mentioned as 06.03.1982, bringing his age within the required age limit, which was ranging from 25 to 35 years for appointment as Cook Constable; that the appellant though later on produced a genuine certificate issued from the Board of Intermediate and Secondary Education Peshawar but his date of birth in the said certificate was mentioned as 06.03.1972, which means that he was overage at the time of his appointment as Cook Constable; that the appellant by using fraudulent means had obtained three CNICs, wherein different date of birth as 06.03.1972, 06.03.1982 and 14.02.1980 were recorded; that the appellant by suppressing actual facts had also procured judgment and decree dated 10.04.2014 from the Court of Learned Civil Judge-II Tank, whereby his date of birth was declared as 14.02.1980; that according to the Secondary School Certificate issued from the BISE Peshawar, the appellant

had passed Secondary School examination in the year 1980, therefore, if 14.02.1980 is admitted as his correct date of birth then it would mean that the appellant had passed Secondary School Examination at the age of 10 years, which is not at all appealable to a prudent mind; that the departmental appeal as well as revision petition filed by the appellant were badly time barred, therefore, the appeal in hand is not maintainable and is liable to be dismissed on this score alone.

5. We have heard the arguments of learned counsel for the appellant as well as learned Assistant Advocate General for the respondents and have perused the record.




6. A perusal of the record would show that the appellant was dismissed from service vide order bearing O.B No. 1235 dated 12.08.2010. The appellant was required to have challenged the same within 30 days of its communication, however he had admittedly preferred departmental appeal on 27.02.2016, which was badly time barred. The appellant after filing departmental appeal had kept waiting and filed revision petitions after considerable delay on 03.09.2020, which were also time barred. August Supreme Court of Pakistan in its judgments reported as 2007 SCMR 513, 2006 SCMR 453 and PLD 1990 S.C 951 has held that when an appeal of an employee was time barred before the appellate Authority, then the appeal before the Tribunal was not competent. August Supreme Court of Pakistan in its judgment

reported as 1987 SCMR 92 has held that when an appeal is required to be dismissed on the ground of limitation, its merits need not to be discussed.

7. As a sequel to the above discussion, the appeal in hand stands dismissed being not maintainable. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
20.03.2023



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN



(KALIM ARSHAD KHAN)
CHAIRMAN
CAMP COURT D.I.KHAN

ORDER
20.03.2023

Learned counsel for the appellant present. Mr. Mohibullah, Inspector alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand stands dismissed being not maintainable. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
20.03.2023



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan



(Salah-Ud-Din)
Member (Judicial)
Camp Court D.I.Khan