

floods of 2010 which had destroyed the entire record of District Nowshera and that appellant was well aware of this fact he, therefore, took that plea. Further submitted that after fulfillment of all codal and legal formalities, he was awarded appropriate punishment which does commensurate with the gravity of misconduct of the appellant.

6. Perusal of record would reveal that vide order dated 27.07.2010 appellant was awarded minor punishment of stoppage of two annual increments with accumulative effect as he absented himself from his duty. Nothing was brought on record that any show cause notice, charge sheet or statement of allegations were ever served upon appellant. Similarly, not an iota of evidence was produced before this bench in order to show that before awarding punishment, any inquiry was conducted according to law. So far as the issue of limitation is concerned, it is on record that he preferred departmental appeal well within time. Even otherwise it is a matter of recurring pecuniary benefits and the appellant has a continual cause of action.

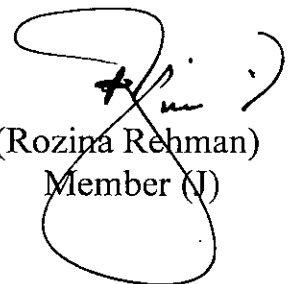
7. In view of foregoing reasons, we allow this appeal as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

27.02.2023



(Kalim Arshad Khan)  
Chairman



(Rozina Rehman)  
Member (J)

He was awarded minor punishment of stoppage of two increments with accumulative effect vide OB No.816 dated 27.07.2010 by District Police Officer, Nowshera on the allegations that he remained absent from duty on 25.07.2010. He filed departmental appeal and vide order dated 19.08.2020, his appeal was rejected. He then filed mercy petition which was also dismissed being badly time barred, hence, the present service appeal.

3. We have heard Bilal Ahmad Kakazai, Advocate learned counsel for the appellant and Muhammad Jan, learned District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Bilal Ahmad Kakazai Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that the impugned orders are illegal and against law as mandatory provisions of law were badly violated by the respondents and appellant was not treated according to law. Learned counsel argued that neither charge sheet nor show cause notice was served upon appellant who was condemned unheard. It was further argued that no inquiry was conducted in order to find out the real facts of the case and the impugned order was passed which is not maintainable in the eyes of law.

5. Conversely, learned District Attorney argued that the order passed by the competent authority is in accordance with law. He submitted that the plea taken by the appellant regarding being unaware of the action taken against him was due to the reason that soon after passing of punishment order, District Nowshera was hit by devastating



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

Service Appeal No.15265/2020

Date of Institution ... 14.10.2020  
Date of Decision ... 27.02.2023

Muhammad Ejaz, 945 Investigation Staff, Nowshera.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Inspector General of Police,  
Police Lines, Peshawar and three others.

... (Respondents)

Bilal Ahmad Kakazai  
Advocate

... For appellant

Muhammad Jan,  
District Attorney

... For respondents

Mr. Kalim Arshad Khan  
Mrs. Rozina Rehman

... Chairman  
... Member (J)

**JUDGMENT**

**ROZINA REHMAN, MEMBER (J):** The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

**“That on acceptance of this Service Appeal the Impugned Order No.816 dated 27.07.2010 may please be set-aside being against the law, and appellant’s increments may please be restored with all back benefits.”**

2. Relevant facts leading to the instant appeal are that appellant was enlisted as Constable in Police Department at District Nowshera.

